

QUESTIONNAIRE

Market Stakeholders

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DEFINITIONS

THE FOLLOWING TERMS SHOULD BE UNDERSTOOD IN THIS QUESTIONNAIRE WITH THE FOLLOWING MEANING:

EU (or European) Standardisation Policy: The policy framework governing standards-setting activities and standards in Europe, that is primarily defined by policy and legal instruments adopted by the EU institutions.

EU Standardisation System: The operational/organisational structure of standards-setting activities in the European Union.

ESOs: The three formally-recognised standardisation bodies in Europe: CEN, CENELEC and ETSI.

ENs: European Norms, being formal standards on the basis of the New Approach.

(Standardisation) consortia: Standards-setting platforms that are primarily formed by private stakeholders with an interest in the development of a specific standardisation activity or standard.

NSBs: National Standards Bodies that are established in the EU Member States.

IPR: Intellectual Property Rights.

OJ: Official Journal of the European Union.

Standards: The deliverables of a standardisation activity, being formal ENs or pre-standards or technical specifications or any other types of outputs of a standardisation initiative (hence, standards in the wide sense of the term).

EU Standards: Standards as defined above produced in accordance with the EU standardisation policy.

EU Standardisation: The production/adoption of standards but **only within the Information and Communications Technologies broad subject area (ICT).**

ADMINISTRATIVE DETAILS

Please complete the following information:

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* Please include names and personal details of all persons having replied.

N.B.! You are invited to indicate (by ticking in the appropriate box) if you agree with the following:

YES	You accept that your feedback to this Questionnaire becomes publicly available.
YES	You accept that your personal name and the name of your organisation are included in the list of the entities having taken part in this survey (“list of survey participants”)
YES	Please indicate if any information you provide in the Questionnaire should be treated as confidential information and, therefore, should not be published. If this is the case, please indicate the Question/s for which we should treat your answer as confidential. Question n°

SECTION 1: PRESENTATION OF THE ENTITY**1] Please describe briefly:****a) Your organisation's/company's profile, area of business and activities, and its relation to standards in the ICT area.**

* It is important to stress what is your role in standardisation: e.g., you are users of standards, you produce standards or you are involved in the promotion of concrete standards in a specific industry segment, you represent the public interest, etc.

Answer:

ANEC stands for 'European Association for the Co-ordination of Consumer Representation in Standardisation', in short the *European consumer voice in standardisation*. ANEC was established in 1995 as an international non-profit association under Belgian law to defend consumer interests in European standardisation and to counterbalance industry while aiming at a high level of protection. ANEC is funded by the European Commission and EFTA, and its Secretariat is based in Brussels. Our areas of priority are: Child Safety, Design for All, Domestic Appliances, the Environment, the Information Society, Services and Traffic Safety.

b) Your organisation's/company's involvement, if any, in standardisation activities at EU or international level.

* For instance, you may support standardisation activities with the ESOs, or on an international platform, such as ISO, or you may participate in standardisation consortia.

Answer:

ANEC REPRESENTATION IN WORKING GROUPS AND STANDARDS COMMITTEES**CEN**

General Assembly

Administrative Board

External Policy Network

Certification Board

Technical Board (BT and TCMG)

CEN STAR - Standardisation and Research

BT WG 117 Child Safety

BT WG 163 Services Standardisation

BT Task Force 144 Highchairs

BT 180 Task Force Services of Real Estate Agents

BT Task Force 106 Lighters

BT Task Force 165 Reusable ink jet cartridges
ISSS ICT Forum
CEN Advisory Nucleus on Machinery Safety
CEN Sector Forum Gas - Utilization
TC52 WG3 TG12 "Activity toys"
TC114 Safety of Machinery
TC122 Ergonomics - WG3 Surface Temperatures
TC136 SC1 Sports, Playground and other Recreational Equipment
TC144 Tractors and Machinery for Agriculture and Forestry + WG7 Garden equipment
TC207 WG1 TG3 Children's furniture
TC224 Machine-readable Cards
TC224 WG6 Man-machine interfaces
TC224 WG15 Citizen cards
TC 248 WG20 "Cords on children's clothes"
TC252 Child Use and Care Articles + working groups
TC278 Road Transport Telematics
TC293 Technical Aids for Disabled Persons
TC331 Postal Services
TC331 WG1 – Quality of Postal Services
TC331 Customer Needs Task Force
TC 350 Sustainability of construction works
TC 350/Task Group "Framework"
TC 350/WG 3 "Product level"
ISSS Forum
ISSS WS Learning Technologies
ISSS Forum on Biometric Standardisation
ISSS WS Web Content Accessibility

CENELEC

General Assembly
Technical Board (BT)
BTTF 120-1 Surface temperatures
CCAF (CENELEC Conformity Assessment Forum)
CLC TC 111X Environment

TC59X Consumer Information Related to Household Electrical Appliances + WGs 1 and 2

TC61 Safety of Household and Similar Electrical Appliances

TC61F Safety of Hand-held and Transportable Electric Motor Operated Tools

TC61 WG4

TC205 WG 16 - Smart Houses

TC106x Electro Magnetic Radiation on Humans

ICT FORUM

Smart House Code of Practice Forum

ETSI

General Assembly

Board

Operational Coordination Group (OCG)

TC Human Factors

TC STQ (Speech Transmission Quality)

TC Safety

TISPAN TC Next Generation Network

ISO

Consumer Policy Committee (COPOLCO)

COPOLCO Services, Subgroup Financial Services

ISO TC207 Environmental Management

ISO TC207 SC 3 Environmental Labelling

ISO TC207 SC3 WG4 Type III environmental declarations

ISO TC207 NGO CAG Task Force

ISO TC207 NGO Forum

TC22 SC12 Child Restraint in Vehicles

TC 59 – Access to the Built Environment

ISO TC 22 / SC12 / WG1 – Child restraint systems in road vehicles

IEC

TC61 Safety of Household and Similar Electrical Appliances (through CI)

TC108 Safety of Electronic Equipment within the Fields of Audio/Video, Information Technology and Communication Technology

UN-ECE - United Nations Economic Commission for Europe

WP29 - Working Party 29 Inland Transport Committee (through CI)

GRSP - Group of Experts on Passive Safety (through CI)

W3C

Advisory Committee

W3C / WAI

ICT Standardisation Board (ICTSB)

DATSCG

SHSSG – Smart Houses Standardisation Steering Group

SECTION 2: ICT TECHNOLOGY AND MARKET NEEDS

2] In your view, are there any important technology advancements that should be addressed by EU standardisation activities as soon as possible?

* In this question, you may also mention technology requirements that your community of the category of market players you represent sees as challenging for standardisation activities in the near future.

Answer:

ANEC welcomes the European Union's commitment to foster an Information Society for All which aims at tackling technical barriers for people with different disabilities in terms of Information and Communication Technologies (ICT). ANEC has repeatedly stated the importance it attaches to this issue. However, the challenges of eAccessibility standardisation are that many standards are informal and international such as the World Wide Web Consortium (W3C), which poses a problem in terms of consumers' participation and transparency of the systems. In addition, it is difficult to reflect in a relatively static document such as a standard, the dynamics of eAccessibility technologies. Standardisation is essential but not sufficient to achieve eAccessibility and legislation may be needed.

Moreover, standards could be a useful tool to address issues such a protection of consumers privacy in the Information Society, especially with regards to Internet Security (spam) and Radio Frequency Identification (RFID).

3] As a standardisation specialist, what are, in your view, the needs of the business sector you represent from EU standardisation?

* If possible, you are invited to state any positive or negative real cases you may be aware of; as experienced by industry, your community or your personal activities in standardisation, etc..

** You may also refer to, and if possible enclose herein, any reports, position papers, other literature your company, business community or another forum in which you participate has prepared on this issue.

Answer:

ANEC believes that ICT standardisation should be based on the following principles, which go beyond the WTO TBT Agreement "Code of Good Practice for the preparation, adoption and application of standards":

1. Openness and transparency;
2. Enhanced consumer participation;

3. Consensus;
4. Implementation and assessment of standards;
5. Cautious use of New Deliverables and non-formal standard setting fora.

Please see ANEC position on the future challenges of ICT standardisation attached (ANEC2005/ICT/035).

4] Are EU standards important for the particular sector of business you represent? If yes, for which aspects of your business are they important?

* Example: a possible answer here may be that, undoubtedly EU standards have an impact on the recognition of your market/business in Europe, or in order to enhance legal certainty of the products and services you market at EU cross-border level, etc.

Answer:

- Accessibility/Design for All
- Safety
- Consistent user interface
- Ease of use
- Environmental issues
- Health and safety issues
- Interoperability and compatibility
- Privacy and security of information
- Quality of service, system reliability and durability

5] Do you currently use EU standards in your business?

a) **If the answer is negative**, do you mostly use other standards (i.e. US standards or specifications developed within a concrete consortium, such as IETF, etc.).

b) **If the answer is negative**, why do you prefer other standards and not European?

Answer:

ANEC does not use standards as such but contributes to the elaboration of standards.

6] Should EU standardisation policy deal more efficiently with interoperability issues?

* Example: a possible answer here may be that, indeed, specific policy actions at EU level should tackle this problem or that this is an issue that the market should sort out on its own.

Answer:

ANEC thinks that interoperability is a key issue for standardization. However, from a consumer's point of view other issues such as accessibility, security and private data protection are equally important.

7] Regardless of interoperability, should the EU standardisation policy deal with other

“functionalities”?

* Such functionalities may be: standards' reliability, usability, quality, efficiency, cross-border legal recognition, maintainability, portability. Please feel free to indicate other functionalities that, according to you, should be addressed in the EU policy agenda about standardisation.

Answer:

It is a basic consumer right to have access to products and services. Discrimination exists if elderly people and people with disabilities cannot use many of today's mainstream consumer products and services. ANEC believes that standards, in particular in relation to ICT and the Information Society, are a suitable tool to implement the concept of 'Design for all'.

SECTION 3: ASSESSMENT OF EU STANDARDS POLICY & STANDARDS

** Please answer the following questions taking into account the special interests and needs of your organisation/company or of the community you represent (specific industry sector, public interest body, other user communities):*

8] To the extent that you have implemented (or tried to implement) EU standards, what are the main obstacles that your business/organisation has faced during this implementation?

Answer:

ANEC considers essential the monitoring of standards implementation as deficiencies in enforcement of standards and safety law allow unsafe products to circulate in the Internal market and thus undermine the consumer confidence.

9] a) Do you consider adequate the information you receive about standards-setting initiatives taking place in Europe?

b) Are you contacted in-time to take part in these initiatives?

Answer:

It is very difficult to reply to this question as informal industry lead standards consortia producing their own technical specifications may establish a closed group, often for commercial benefit, the output of which may not be publicly available. From a consumer point of view, the lack of transparency and consensus involved raises concerns because they impede proper consumer participation.

10] Is it a problem for you that formal standardisation procedures (within ESOs) and non-formal standards-setting activities (e.g. within consortia) many times result in the development of similar, conflicting or overlapping standards?

Answer:

Yes, please see above.

11] In your view, why are US standards or standards produced in specific consortia (e.g. IETF standards in the internet area) prevailing over EU standards in many areas?

Answer:

Because the major ICT businesses are based in the US. However, there could be a better coordination between the European national bodies.

12] Some ICT areas are typically standardised by certain organisations (e.g. IETF for Internet, IEEE for LANs, etc.). Most of these organisations follow the “philosophy” of the US standardisation system. It is also striking that, in most of these organisations, there is already a strong presence of EU participants (companies and organisations) but there is not an effective presence of Europe as such.

a) How do you explain this fact?

b) Should EU standardisation policy do something about that problem or no action is necessary?

Answer:

13] How do you compare the cycle prototype development / standards creation / product creation between the US and European enterprises?

Answer:

14] As company involved in EU standardisation activities, you have certainly experienced the following problem: Although EU standards are sometimes produced in time with technology needs, the market is slow to roll out/put on the market products and services based on these standards.

Answer:

15] Is something missing from the current EU standardisation policy to help create wide industry consensus on these standards?

Answer:

For consumers it is vital that European standardisation is open, transparent and a consensus-driven process, which allows all stakeholders to participate and to safeguard their interests. Most often, however, industry representatives dominate standardisation committees. Therefore, ANEC calls for adding the concept of balanced representation to the list of standardisation principles, to which the European standards bodies commit themselves, so that the European standardisation system ensures that all parties concerned are actually involved in a balanced way, that their views are adequately taken into account and that mechanisms are in place and accessible to all stakeholders to reconcile conflicting arguments.

16] Is your company involved in non-EU standards organizations? If yes, please state why you

decided to participate in these organizations. Would it be worthwhile to start similar involvements in EU organizations?

Answer:

ANEC became a W3C member in October 2004 as a pilot project for consumers participation in informal standards setting organisations. To date, no other consumer association is member of W3C, however there are several disability associations (e.g.: Royal National Institute of the Blind, UK).

Moreover, we participate in UN-ECE - United Nations Economic Commission for Europe and in selected Technical Committee of ISO and IEC (please see complete list under question 1 b).

17] What is your opinion about the extensive authority of ESOs in EU formal standardisation today? For instance, ETSI aims to cover all aspects of standards setting, from defining European standards, to developing, certifying and testing them.

Answer:

ANEC would like to stress the importance of establishment of internal mechanisms within standards organisations to monitor the implementation of standards as it would provide stakeholders with essential information on their market uptake and usefulness. ANEC suggests to set up a quality control system to evaluate the process and the content of mandated standards of public interest.

For example, the primary mission of the W3C Quality Assurance Activity is to improve the quality of W3C specification implementation in the field. During its first three years, the Activity set up an improved foundation for quality at W3C: the QA Framework, Matrix of W3C specifications, outreach to working groups in various forms, and the QA library. This offers the unique opportunity to oversee the implementation of W3C deliverables.

18] Have any IPR issues been ever a barrier to your participation in EU standards-setting activities?

Answer:

ANEC is of the opinion that standards should be widely available to all interested parties and not be used as a means of market segmentation. Therefore, ICT standards should either be free of Intellectual Property Rights concerns, or licensable on a fair, reasonable and non-discriminatory basis (FRAND).

19] Are you basically satisfied with your participation in EU activities or do you think that improvements should be made?

Answer:

ANEC believes that rules or rights for public interest stakeholders, such as consumer representatives, need to be reinforced, in particular in standardisation work related to the public interest and when extending New Approach principles to

new policy areas. Public interests stakeholders in fact remain a minority and a typical European standardisation committee dealing with product specifications (e.g. toys, electrical appliances, packaging) consists of approx. 60-80% of members representing corporate interests.

To this end, an ANEC position paper (ANEC-GA-2006-G-004) elaborates on a number of practical measures ANEC would like to propose to CEN and CENELC. The measures that ANEC would like to propose, address four dimensions: **B**alanced representation, **C**onsensus building, **S**trengthening public interest representation in the standardisation process, and **I**mproving efficiency and quality management.

As far as ETSI is concerned, ANEC submitted a request to discuss the concept of a consumer membership category in ETSI (ANEC-ICT-2006-G-027). ANEC also suggested the creation of a Dedicated Consumer Seat on the ETSI Board, following last year's commitment of the ETSI General Assembly to address the issue (High Level Review Group (HLRG) Recommendation 7 "Develop mechanisms to encourage User Members to contribute effectively"). ANEC believes it is important that ETSI recognises "Consumers" as a membership category as it would reflect the privatised electronic communications market where consumers constitute an important share of companies' customers. It would also meet the EU standardisation and consumer protection policies.

20] If the answer to the previous question is negative, please indicate how you think that your involvement should be enhanced in the current EU standardisation arena.

Answer:

Please see answer above

21] If not covered by the questions above, are there specific aspects of the current European standardisation policy in ICT that you would like to criticise?

* We understand the term "standardisation policy" as widely as possible, covering: the legal framework, the organisational structure (i.e. ENs produced only in ESOs, the co-existence of ESOs/consortia), the financing of standards-setting activities, IPR issues, the relation of standardisation to other European policies or national policies, the implementation of standards, etc.

Answer:

An open standardisation process should be based on consensus which means no adoption of standards against sustained opposition of one group of stakeholders. When the national representation rule applies, it is essential that the various stakeholder positions are properly identified in addition to national views at all stages of the process. There should be a form of indicative voting for stakeholder organisations involved directly at the European or International level.

ANEC also sees a need to reform the standardisation system which will not be attained in one leap and a mix of instruments seems reasonable: for instance, enshrine in a general European standardisation law that standards implementing

public policies have to be based on a consensus of all parties involved.

22] To the best of your knowledge, can you state two-three real cases whereby you find that the synergy between your community or your own company/organisation within an EU standardisation activity proved to be beneficial?

* According to you, what are the reasons behind these “success stories”?

Answer:

ANEC members lobbied very strongly throughout the adoption process of Mandate M/376 (European accessibility requirements for public procurement of products and services in the ICT domain) which started last year and ended in March 2006. However, ANEC regrets that the adoption process of the mandate was delayed by CEN/CENELEC members’ concerns on the request to consider the free availability of the produced ENs which is in apparent contradiction with their business models.

SECTION 4: RECOMMENDATIONS

23] What reform(s) would you like to see in the current EU standardisation policy in order to give your commitment to support and implementation of EU standards?

Answer:

ANEC acknowledges that the New Approach to Technical Harmonization in the field of safety has contributed to the completion of the Internal Market, free movement of goods, product safety, and consumer protection. Nonetheless, we have come across many problems in defending consumer interests in the field of standardisation and in ensuring an adequate level of safety. For instance, in a recent enquiry carried out by the European Commission regarding the publication of references of standards in the Official Journal (OJ) that fall under the scope of the General Product Safety Directive, ANEC opposed the publication of seven out of nine proposed standards, dealing with childcare articles, due to significant flaws in these specifications.

The problems are generated by inherent shortcomings of the New Approach system, for instance that it is almost entirely based on standards bodies. Also, in technical committees at European level industry is normally in the majority, reflecting an imbalance in representation in many national standards bodies. This does not ensure balanced decision-making, all the more the set up and processes of the standards bodies disadvantage minority positions.

Therefore, ANEC believes that a fundamental review of the New Approach is needed, going beyond the Commission’s current proposal, so as to improve the balance between public interests and business interests. This should be done by strengthening the role of public authorities when elaborating detailed specifications. For instance, standardisation ought to be complemented by the option to task a Committee of Member States (Comitology), complemented by an expert group (stakeholder advisory forum), to set limit values or other key requirements, to resolve problems encountered in the standards bodies and to react on market

developments in a quick and flexible way. This procedure has to be transparent and open to all stakeholders, in particular public interest stakeholders, such as consumers.

Furthermore, ANEC is convinced that a democratic reform of the European Standards Organisations is needed. To this end, ANEC has elaborated a catalogue of measures to improve public interest stakeholder participation in CEN and CENELEC (ANEC-GA-2006-G-004).

Finally, we reiterate that consumers do not endorse the extended use of the New Approach in policy areas such as the environment, energy, food and health, unless such reform has been implemented. The New Approach should not be considered as the general model applicable in the whole products or services area. Specific standardisation projects in these areas can be useful. But this should be decided on a case-by-case basis.

Please see ANEC positions on the new approach (ANEC-GA-2006-G-036), on the future challenges of ICT standardisation (ANEC2005/ICT/035) and ANEC proposals for improving public interest stakeholder participation in CEN and CENELEC (ANEC-GA-2006-G-004) attached.

24] In your view, does the market need EU standardisation policies that can help in the formation of “industry consensus” for the adoption of EU standards?

Answer:

25] What means should be put forward to implement such reform(s)?

* Examples: these means may be policy or legal measures, or a combination of both, etc. Please also mention which entity/authority, if this is necessary, may play a role to implementing these means.

Answer:

26] What should be the role and position of the community you represent into the “revamped” standardisation landscape?

Answer:

Over the past ten years, ANEC has proven to be a reliable, competent and therefore critical partner in the standardisation community and consumer representation in EU standardisation has shown that consumer participation is not a hampering stone for competitiveness but an important and accepted principle of the European standardisation system. Consumer participation is indeed important to counterbalance the industry view. Furthermore, ANEC is convinced that a democratic reform of the European standards organizations is needed. To this end, ANEC has elaborated a catalogue of measures to improve public interest stakeholder participation in CEN and CENELEC (ANEC-GA-2006-G-004).

27] a) In your view, are EU standards visible and competitive at an international level?

b) If the answer to this Question is negative, what elements are still missing for making EU standards more visible and reputable on a global scale?

Answer:

ANNEX I

ANEC POSITION PAPER ON THE REVISION OF THE NEW APPROACH (ANEC-GA-2006-G-036)**COMMISSION WORKING DOCUMENT - CERTIF 2005-16 REV. 2: ELEMENTS FOR A HORIZONTAL LEGISLATIVE APPROACH TO TECHNICAL HARMONISATION****INTRODUCTION**

ANEC acknowledges that the New Approach to Technical Harmonization in the field of safety has contributed to the completion of the Internal Market, free movement of goods, product safety, and consumer protection. Nonetheless, we have come across many problems in defending consumer interests in the field of standardisation and in ensuring an adequate level of safety. For instance, in a recent enquiry carried out by the European Commission regarding the publication of references of standards in the Official Journal (OJ) that fall under the scope of the General Product Safety Directive, ANEC opposed the publication of seven out of nine proposed standards, dealing with childcare articles, due to significant flaws in these specifications.

The problems are generated by inherent shortcomings of the New Approach system, for instance that it is almost entirely based on standards bodies. Also, in technical committees at European level industry is normally in the majority, reflecting an imbalance in representation in many national standards bodies. This does not ensure balanced decision-making, all the more the set up and processes of the standards bodies disadvantage minority positions.

Therefore, ANEC believes that a fundamental review of the New Approach is needed, going beyond the Commission's current proposal, so as to improve the balance between public interests and business interests. This should be done by strengthening the role of public authorities when elaborating detailed specifications. For instance, standardisation ought to be complemented by the option to task a Committee of Member States (Comitology), complemented by an expert group (stakeholder advisory forum), to set limit values or other key requirements, to resolve problems encountered in the standards bodies and to react on market developments in a quick and flexible way. This procedure has to be transparent and open to all stakeholders, in particular public interest stakeholders, such as consumers.

Furthermore, ANEC is convinced that a democratic reform of the European Standards Organisations is needed. To this end, ANEC has elaborated a catalogue of measures to improve public interest stakeholder participation in CEN and CENELEC (ANEC-GA-2006-G-004).

Finally, we reiterate that consumers do not endorse the extended use of the New Approach in policy areas such as the environment, energy, food and health, unless

such reform has been implemented. The New Approach should not be considered as the general model applicable in the whole products or services area. Specific standardisation projects in these areas can be useful. But this should be decided on a case-by-case basis.

SPECIFIC COMMENTS

Legislative strategy

ANEC believes that there is a need for more consistency across the board of the New Approach Directives and therefore welcomes the initiative of the European Commission to set an overall framework for safety, to provide a legal base for accreditation and market surveillance and to set a joint framework for the essential requirements common to all New Approach Directives, such as common definitions, requirements for the development of European standards, common approach to conformity assessment as well as the rules and procedures for a common 'safeguard' mechanism.

However, ANEC is of the opinion that standardisation should not be the only option to establish detailed safety requirements for products. The existing Member States Committees (Comitology) could be such an alternative provided the procedures become transparent and are opened up for guaranteed stakeholder participation.

In a joint position paper regarding the revision of the Toy Safety Directive, ANEC and BEUC (ANEC2004/CHILD/059) proposed "the implementation of a Committee Procedure (Comitology) in order to allow for flexible adjustments of the Directive by detailing essential requirements (e.g. to establish limit values for chemicals, noise, speed and so forth). In addition, this procedure can be used to determine the products, which fall inside or outside the scope of the Directive and to determine those toys for which an EC type approval (third party testing) is needed". We believe that this would allow quick reaction to market changes (new products) or new identified risks. Moreover, it would allow the establishment of requirements (specify essential requirements) without having to revise the whole Directive, which is a long process involving the Parliament and the Council.

We would like to emphasise that the idea of stakeholder involvement in a committee pertaining to a New Approach Directive is already informal practice with the Toy Safety Experts Group. And the recently adopted Energy Using Products Directive makes also use of a 'Consultation Forum', involving stakeholders in addition to the regulatory committee restricted to Member States.

Delegating the elaboration of technical specifications to organisations other than the European Standards Bodies might offer new options, however, we consider it important to enshrine in the horizontal legislation that in such a case, adequate procedures are in place that ensure the implementation of the acknowledged standardisation principles, including full participation of all stakeholders and balanced representation.

Finally, we identified an urgent need to align the safety concept of the New Approach with the safety concept of the General Product Safety Directive that is based on the notion of reasonably foreseeable use. This is of particular importance with respect to the Low Voltage Directive. ANEC believes that consumer products falling under the scope of the New Approach Directives should follow the same safety philosophy as other consumer products so that consumers enjoy the same level of protection irrespective of the competent legislation. This ought to be reflected in the framework legislation.

Motivations

Whilst we agree that an EU legislative framework for those aspects common to all New Approach Directives will improve the efficiency of the New Approach, we do not believe that this is sufficient in light of the extension of the New Approach to new policy areas such as services.

Standardisation plays a prominent role in the 2005 re-launch of the Lisbon objectives and is considered one of the key factors to enhance Europe's competitiveness. The intention to use standardisation instead of legislation in the services area will have a direct impact on consumers and it is vital that the consumer view is an integral part of this concept. The challenge here is two-fold. First, there is no overarching legislative framework, in which standards could operate, as is the case in the product area. Second, there is a need to innovate the European standardisation system so as to ensure that it is equipped to cope with these future tasks.

Effective participation of public interest stakeholders in the standardisation process is a precondition for the legitimacy of the New Approach, promoted by all political institutions in the EU. Therefore ANEC believes that rules or rights for public interest stakeholders, such as consumer representatives, need to be reinforced, in particular in standardisation work related to the public interest and when extending New Approach principles to new policy areas.

In the longer term, the current standardisation system needs to change so as to ensure fair and equal rights for commercial and non-commercial interests in the field of standards of public interest. This future system would be based on balanced representation, with committees embracing defined numbers of seats and their allocation to stakeholder groups in a balanced way.

In the meantime, ANEC has proposed some reasonably straightforward changes to processes in CEN and CENELEC that could make significant improvements in governance. The proposals aim at structural changes in order to enhance minority positions by counterbalancing existing inequalities, ensuring more equal and fair chances for all stakeholders to influence the standardisation process and to have

their views taken into account¹. We hope that our proposals will be taken into consideration in the course of the current review of the CEN Strategy 2010.

A clear concept of balanced representation is also needed when specifications other than standards are used to give a presumption of conformity to the requirements of directives. ANEC calls upon the Commission to develop a code of good practice which would be applicable to traditional and new standardisation institutions.

Contents of the possible horizontal legislative act

1. Scope and essential requirements

ANEC is of the opinion that the following elements need to be enshrined in the future horizontal legislative framework:

- Same safety concept as enshrined in the General Product Safety Directive, which is based on the concept of reasonably foreseeable use instead of intended use only;
- Possibility of a Committee Procedure, complemented by a stakeholder advisory forum, for the elaboration of specific requirements as described above, including adequate procedures that ensure full participation of all stakeholders and balanced representation;
- The scope should include accessibility as products should be safe for all consumers;
- Procedures to develop mandates to the ESOs including the need for public consultation, involvement and review of consultants involved, level of detail, need for adequate involvement and balanced decision making of stakeholders in the elaboration of standards;
- Quality criteria and supervision of New Approach consultants monitoring the compatibility of standardisation work with legal requirements;
- Quality assurance of the output (=the standards) in terms of content and procedure (e.g. compliance with mandates, adequately balanced stakeholder influence) prior to publication of the references of the standards in the OJ. We perceive the procedure applied under the General Product Safety Directive (stakeholder consultation prior to publication) as a good starting point;
- Obligation of the Commission to reject inadequate standards not fulfilling the criteria mentioned above (not only the MS should be able to formally object to

¹ ANEC acknowledges that apart from gearing up the CEN/CENELEC system for balanced representation, improved public interest stakeholder participation also requires the availability of financial resources. Therefore, we call upon the European Commission and Member States to enshrine in legislation the obligation for national governments to provide funds for public interest stakeholder participation in standardisation.

a standard);

- Genuine European market control strategy with basic rules for enforcement.

Finally, we agree that essential requirements should be formulated in terms of performance rather than design where appropriate (which is, however, not always the case) and should be as precise as possible. Equally important is a concrete and precise wording of standardisation mandates as well as an adequate follow-up of the results.

3. Traceability requirements

We welcome the listed obligations to ensure transparency about the manufacturer, importer and suppliers. We support the idea to record this data with the help of a European database.

4. Conformity assessment

The existing guidelines remain unchanged except that Modules D, E and H would be modified to reflect two options:

- a. replacement by Module Q containing guidelines for directives on determining the requirements of the quality system (ISO 9001:2000) that apply in each sector
- b. reflect requirements of ISO 9001:2000.

In general, ANEC does not appreciate Modules D, E and H because we prefer third party testing. From a consumer's point of view, quality management systems may complement third party product performance tests but should on no account be regarded as a replacement.

5. Conformity assessment/Notified bodies

ANEC welcomes all efforts, transparency measures and collaboration between Member States aiming at improving the consistency and reliability of the notification system.

ANEC also supports the idea of a horizontal guidance document on best practices and a set of stringent essential requirements for the assessment, designation and monitoring of conformity assessment bodies. Notified bodies shall be fully independent third-party bodies. This has to be based on transparent criteria.

Finally, ANEC endorses an on-line notification system for notified bodies as well as joint working groups between Member States.

6. Accreditation

We agree with the European Commission that public authorities must recognise accreditation as their own obligation and therefore commercial competition is to be excluded between accreditors. Ideally there would be only one accreditation body in

each country operated or controlled by authorities. In any case the government must have the final responsibility.

Essential requirements and operational obligations must be as such to guarantee the safeguard of the public interest mission of the European accreditation system.

National accreditation bodies have set up a private association at the European level (EA), in order to coordinate their activities and to operate a peer evaluation system. We would agree with the recognition of the EA provided all members fulfil the criteria.

7. CE Marking of conformity

“Lack of understanding in the meaning of the CE marking by the consumers, and poor policing of its rules undermines the confidence in the New Approach. The option of abolishing it should be an object of public debate.” This is one of the conclusions from the European Commission’s reflection paper on the role and significance of the CE marking. In our comment (ANEC2005/GA/037), ANEC welcomes this option because we are concerned about the misuse of the CE marking.

Consumer advocates know too well that not all products circulating in the Internal Market are safe, even though they bear the CE marking. Faulty and unsafe products, however, trigger a loss of consumer confidence in the European Internal market. On top of this misuse of the CE marking, which is directly linked to deficiencies in market surveillance, the majority of European consumers misread the CE marking, which is not addressed to consumers but to public authorities.

We understand that apparently most of the consulted parties would like to maintain the CE marking but not as it is. Bearing in mind that we still believe that it would be best to abolish the CE marking in all communications to consumers in order to avoid further erosion of the credibility of the New Approach, we propose as an alternative to remove the CE marking from the product itself and to affix it on the technical file.

8. Market surveillance

ANEC welcomes the Commission’s intention to improve market surveillance in the European Internal Market as deficiencies in enforcement of standards and safety law allow unsafe products to circulate in the Internal market and thus undermine the consumer confidence. We call for establishing a genuine European market control strategy with basic rules for enforcement, which Member States would be obliged to comply with, including sanctions. Proper implementation of such basic rules requires a legal framework. However, the essential elements, as listed in the Commission document, do not appear to be stringent and detailed enough.

We believe that improving market surveillance in the European Union will only be feasible by allocating adequate resources to national authorities in terms of people and funds. Funds should be made available also at the European level to carry out some spot checks independently of the Member States.

ANEC also endorses the efforts to reinforce administrative co-operation and information exchange amongst Member States and with the European Commission. We welcome the extension of the existing RAPEX system. Reliable accident data is not only an important tool for consumer organisations but also for strategic market surveillance in order to identify areas for action. Therefore, ANEC reiterates its call for long-term maintenance and improvement of the former EHLASS/ISS meanwhile IDB system and retention of its product safety basis.

ANEC would like to stress the importance of full transparency regarding enforcement activities. European citizens have a right to know which products have been subject to national measures (in particular, of non-compliances) and also how active their authorities are. To this end, all national enforcement agencies should be obliged to prepare annual reports summarising the main results at an appropriate level of detail, which ought to be available in the public domain. Guidelines should be elaborated for this.

We appreciate that the ICSMS database will be available to all stakeholders and not only to authorities; however, we believe that the system will have to be improved significantly in terms of user-friendliness. For instance, consumers should have a possibility to search for faulty products found in one particular country.

Finally, ANEC welcomes the recommendation to modify the safeguard clause procedure in the New Approach Directives in order to ensure a uniform approach, to simplify and shorten the process. However, we believe that it is insufficient that other Member States are just informed about enforcement activities of a Member State in the national procedure. As in the case of the community procedure (where a Member State or a manufacturer disagrees with a national measure) there should be an obligation for all Member States to take action and to make sure that unsafe products are removed from the market. END

ANNEX II

ANEC PROPOSALS FOR IMPROVING PUBLIC INTEREST STAKEHOLDER PARTICIPATION IN CEN AND CENELEC (ANEC-GA-2006-G-004)**INTRODUCTION**

The New Approach to Technical Harmonisation entrusted the European standardisation organisations with the task of defining European safety standards. This delegation of powers from the legislator to private organisations simplified legislation and law-making on the one hand, and induced a democratic deficit on the other hand. Therefore the European Commission, politicians and consumer organisations in the aftermath of the introduction of the New Approach called for an independent consumer body in standardisation to ensure the legitimacy of the New Approach and to organise consumer representation in standardisation. They referred to existing structures in the bigger Member States, in particular France, Germany and the United Kingdom, where the standardisation process had been opened for consumer participation in the 1970's or even earlier.

Over the past ten years, ANEC has proven to be a reliable, competent and therefore critical partner in the standardisation community and consumer representation in EU standardisation under the New Approach has shown that consumer participation is not a hampering stone for competitiveness but an important and accepted principle of the European standardisation system. Consumer participation is indeed important to counterbalance the industry view. The opening-up of the standardisation process for public interest stakeholders, meanwhile also for environmental groups, as a compensation for the delegation of legislative powers to private bodies has become an indispensable element of the New Approach.

However, public interests stakeholders remain a minority and a typical European standardisation committee dealing with product specifications (e.g. toys, electrical appliances, packaging) consists of approx. 60-80% of members representing corporate interests. Therefore, ANEC believes that rules or rights for public interest stakeholders, such as consumer representatives, need to be reinforced, in particular in standardisation work related to the public interest and when extending New Approach principles to new policy areas. Standardisation plays a prominent role in the 2005 re-launch of the Lisbon objectives and is considered one of the key factors to enhance Europe's competitiveness. The intention to use standardisation instead of legislation in the services area will have a direct impact on consumers and it is vital that the consumer view is an integral part of this concept. The challenge here is two-fold. First, there is no overarching legislative framework, in which standards could operate, as is the case in the product area. Second, there is a need to innovate the European standardisation system so as to ensure that it is equipped to cope with these future tasks.

We see that with current processes, all partners are having representation challenges. In the longer term, standardisation bodies need to improve synergies

and provide innovative, sustainable solutions that enable all relevant stakeholders to voice their opinion and to be counted, irrespective of their size, location, resources etc. In the meantime, we have concentrated on some reasonably straightforward changes to processes in CEN and CENELEC that will make significant improvements in governance. One of our main proposals relates to the concept of balanced representation, ensuring equal and fair chances for all stakeholders to influence the standardisation process and to have their views taken into account².

To this end, this paper³ elaborates on a number of practical measures ANEC would like to propose to CEN and CENELEC. Hopefully, our proposals will be taken into consideration in the course of the current review of the CEN Strategy Paper 2010.

RECOMMENDATIONS

The measures that ANEC would like to propose, address four dimensions: **B**alanced representation, **C**onsensus building, **S**trengthening public interest representation in the standardisation process, and **I**mproving efficiency and quality management.

1. **Balanced representation**⁴

- ANEC urges CEN and CENELEC to add to the catalogue of standardisation principles they are committed to, the principle of balanced representation of all societal stakeholders ranging from business, public authorities, trade unions to NGOs representing the public interest, such as consumers and environmental groups.
- It is proposed to revisit CEN/CENELEC internal rules with the view of identifying opportunities to implement and enforce the principle of balanced representation (see in particular the proposals under Strengthening public interest representation in the standardisation process).
- In this respect, the concrete obligations of CEN and CENELEC members, also deriving from the following commitment in the CEN Strategy 2010, ought to be clarified: “Based on their statutes and on their procedures the NSBs ensure that all interested parties (even national minorities) have a fair chance to participate actively in the development of European Standards. The democratic

² ANEC acknowledges that apart from gearing up the CEN/CENELEC system for balanced representation, improved public interest stakeholder participation also requires the availability of financial resources. Therefore, we call upon the European Commission and Member States to enshrine in legislation the obligation for national governments to provide funds for public interest stakeholder participation in standardisation.

³ Further, the aspects related to the legal level (design of directives following the New Approach, mandates given by the European Commission, their follow-up, safeguard procedures, publication of harmonised standards and the quality control of the entire system) will be dealt with in a separate paper.

⁴ Annex D provides the reasoning behind our recommendations related to balanced representation.

legitimizing of the European Standards can only be derived from this process.” (CEN Strategy 2010, page 12). The national practices ought to be subject to regular screening and reporting.

- The concrete obligations for the NSBs should be listed in CEN/CENELEC Guide 2 that in any case, we believe, is due for revision as it dates from the 1970s. Our proposal for revising Guide 2 is provided in Annex C.

Consensus building⁵

- It is suggested to define the term ‘consensus’ on the basis of the notion of ‘substantial objection’ rather than on the notion of ‘sustained opposition’ and to describe how to lodge ‘substantial objection’ (e.g. simply by indicating this in the relevant section of the comments template and, in addition, in the general section of the comments template or in a separate line in the relevant forms).
- Guidance on how the consensus can be established and on how to proceed in the event of a substantial objection would be helpful. This procedure should include CEN Associates and CENELEC Cooperating Partners.

Strengthening public interest representation in the standardisation process

Technical committees, Subcommittees and Working Groups in CEN and CENELEC dealing with issues of public interest are to be identified. For these bodies the following measures are suggested:

- To define a number of stakeholder groups and to establish a stakeholder classification scheme in order to register the occupational background of participants of meetings. An example for such a scheme is provided in Annex B, based on ISO work.
- To record data, such as the percentage of the different stakeholder groups attending meetings. The collected data would be accessible to CEN/CENELEC members, including CEN Associates and CENELEC Cooperating Partners.
- To consider copying the operational procedures, as developed by the ISO Working Group on Social Responsibility for balanced representation in general, and the composition of national delegations attending standardisation meetings in particular (Annex C). For instance, the ISO SR WG rules fix a maximum number of representatives for each stakeholder category. Another ISO SR rule refers to the establishment of stakeholder groups in large committee, consisting of those stakeholders represented, with the possibility to convene during a meeting to develop positions on procedures.

⁵

Annex D provides the reasoning behind our recommendations related to consensus building.

- To assign the task of monitoring balanced representation and decision-making in standardisation groups and eventually of addressing imbalances to Chairs and Convenors who would be assisted by an advisory group, consisting of one representative from each stakeholder group.
- To revisit the procedures for standards enquiries so as to allow for communicating stakeholder views disagreeing or complementing the national views. For the sake of transparency, national mirror committees should provide information on minority views in addition to the national consensus positions, in particular in the event that the minority view substantially deviates from the national point of view.
- To allow stakeholders to express their opinion in addition to the national positions at TC or SC level.
- To assign an indicative voting right to CEN Associates/CENELEC Cooperating Partners to identify informally their approval/disapproval of committee decisions. This indicative voting right would be applicable to any decision-making, such as approval of new work items, draft standards and resolutions.
- To consider measures so as to resolve negative indicative votes of CEN Associates/CENELEC Cooperating Partners in the same manner as negative votes expressed by NSOs.
- To incorporate the CEN informal “Early conflict resolution mechanism” as adopted by CEN BT in May 2004, into the CEN/CENELEC Internal Rules and extend it to the pre-enquiry stage.
- To make draft standards dealing with subjects of public interest, available free of charge on the Internet, together with the invitation to comment.
- To provide easy access to information with respect to standards development, for instance to provide tools – ideally on-line – so as to identify the exact stage of a draft standard, to generate lists of new work items and enquiry/formal vote documents for a specific period of time (for instance monthly), including the necessary search functions.

Improving efficiency and quality management

CEN has speeded up the production of standards considerably by introducing the 3 years time lead for all new work items. However, ANEC believes that in addition new concepts need to be introduced so as to optimize the process. Therefore we propose:

- To initiate a standards project, only if a feasibility study or a draft specification (e.g. a national standard or a proposal elaborated by a stakeholder) is available. The feasibility study should result in an outline of a draft standard and should be reviewed by the working group in charge and the TC to obtain consensus otherwise the standards work should not commence.

- To nominate one of the Working Group members as project leader for each work item, including preliminary work items. The project leader should be responsible for managing the process. He should be assisted by a small group of stakeholders (and a consultant, where appropriate) that would be in charge of preparing drafts to be reviewed by the full working group. The comments ought to be compiled together with a recommendation on how to proceed (as it is done after the enquiry). This whole process could be handled in the main by email correspondence. Meetings should be held for the purpose of establishing the principles and resolving disputes.
- To evaluate the process and the project leaders, chairpersons, convenors and secretariats on a regular basis by the participants of the respective groups. It is important to provide guidance on how to proceed.
- To evaluate the consultants, who are recruited in consultation with the Commission and the EFTA Secretariat and advise committees preparing European standards in the context of New Approach Directives, by all parties involved.
- To ensure that a negative assessment of a draft standard by the competent consultant would lead to a halt in the processing of the document until the reasons for the negative evaluation are addressed and rectified.
- To trigger by default the Appeals Procedure in case a European standard fails the formal vote. The BT in cooperation with the management centre of CEN or CENELEC should - in cooperation with all stakeholders - resolve the issue without another vote.
- To consider that often international standards are not elaborated with the participation of public interest stakeholders because in many ISO member countries adequate representation of public interest stakeholders, such as consumers, hardly exists for various reasons. Therefore, safeguards have to be developed in order to ensure that European public policy issues are adequately taken into consideration in international standards. Whenever standardisation tasks related to an EU standardisation mandate are transferred to an international standards committee, a EU monitoring process involving all stakeholders concerned should be ensured.
- To ensure that standards, transposed from the international to the EU level in order to complement EU legislation in the field of health and safety, do not contain options resulting in non-compliance with EU legislation and legal uncertainty. If the international standards are not fully compatible with EU legislation, European standards shall be prepared.
- To implement a quality monitoring system for assessing the quality and effectiveness of European standards and to match the assessment with data on balanced representation.

- To incorporate all of the proposed changes into the CEN/CENELEC system in the training programmes of CEN/CENELEC and NSOs respectively, in order to ensure proper implementation.

In conclusion, ANEC would be pleased to discuss with CEN and CENELEC the options for implementing our recommendations.

2. Annex A: Proposal for a revised CEN/CENELEC Guide 2

Consumer interests and the balanced preparation of standards (2005)

A) General – Balanced representation of social interests

Member bodies of CEN and CENELEC support the principle of balanced representation and decision-making of different social interests in standardisation. It is a goal of standards activity that all interests affected by the work, are properly taken into account. The member bodies of CEN and CENELEC commit themselves:

- to ensure that all relevant stakeholders – business, consultants, certification bodies, government, consumers, and other NGOs – are regularly represented in a balanced way in those national committees dealing with issues of public interests
- to regularly monitor the composition of the national technical committees and to take corrective action, where necessary
- to implement an arbitration procedure/conflict resolution mechanism open to all stakeholders
- to establish written procedures in co-operation with all stakeholders for all of the above
- to prepare an annual report on actions taken and to make it publicly available

B) Specific recommendations for consumer representation

Member bodies of CEN and CENELEC acknowledge the important role, which consumer representatives play in standardisation and commit themselves to promote consumer participation in standardisation at the national level wherever possible and, in particular, by :

- inviting consumer representatives to join the managing board of the NSO
- involving consumer representatives both in the planning of the standardisation programmes and in policy matters relevant to consumers

- inviting consumer representatives free of charge to participate in all technical committees dealing with standardisation work of public interest
- encouraging the active participation of consumers in national delegations to European standardisation meetings
- providing consumer representatives with guidance on standards procedures
- finding solutions to overcome financial difficulties where the representation of consumers is hampered by the lack financial resources, e.g. by providing a subsidy allowing consumers to attend at least a minimum number of national and European committees; by providing infrastructure free of charge for a consumer body within the standards organisation; by providing support to consumer organisations when approaching public authorities to obtain financial support
- preparing an annual report on the above and by making it publicly available

Member bodies of CEN and CENELEC will evaluate the situation together with the stakeholders concerned and consider further actions or recommendations to be taken.

CEN and CENELEC will review annually the reports submitted by their members in cooperation with the stakeholders concerned and consider further actions or recommendations to be taken. In particular, CEN/CENELEC will develop and periodically revise a best practices document regarding the subjects mentioned above.

Annex B: ISO/TMB/WG SR (Social Responsibility): Guidance on Stakeholder Categories in the ISO/TMB/WG SR

Recognizing the importance of ensuring balanced participation in the development of SR standards, the ISO/TMB specified that representation in the ISO/TMB/WG/SR shall be organized within six stakeholder categories. These categories are:

Consumers
Government
Industry
Labour
NGO
Other

(Note: the ISO/TMB/WG/SR agrees that the other category should be re-named "Service, support, research and others")

The ISO/TMB/WG/SR notes the importance of ensuring, to the extent possible, that experts, observers and national mirror committee members involved in the ISO 26000 standardization process participate under the appropriate stakeholder

category. To this end, the ISO/TMB/WG/SR believes that there is a value in providing guidance on the definition of, the nomination process for, and the verification of these different stakeholder categories.

The following guidance has been developed to assist individuals and organizations to better understand the scope and intent of each stakeholder category. This guidance is a work in progress and, where necessary and based on experience, the ISO/TMB/WG/SR may in the future provide additional or revised guidance for any of these stakeholder categories.

2.1.1 Definition of a representative in the consumer stakeholder category to the ISO TMB WG SR process

CONSUMER

A member of a consumer stakeholder category is a representative of a consumer organization, which is defined as either:

1. An independent organization which is:

- advocating the interests of consumers before other organisations and governments.
- not-for-profit in character
- not involved in the advancement of commercial interests, although it may engage in trading activities related to the provision of consumer information and to promoting its own work
- not affiliated with any political party

or,

2. An organisation or agency that is active in consumer affairs. Such an organization or agency may for example, specialise in one particular consumer issue such as standards, law or consumer protection.

2.1.2 Consumer Stakeholder Category -

Guidance to National Standards Bodies

1. National level

All Consumer stakeholder representatives should be committed to the role they are undertaking, which as a minimum requires the representative to be responsible for the following tasks:

- When appropriate, should be active in the consumer movement in the country and promote dialogue on SR among relevant public interest and

/or consumer organisations.

- Participate in the activities of the country SR mirror committee

Participation is understood to involve sharing the position of the consumer representative's organisation, within the national stakeholder group.

2.1.3 The number of consumer organisations participating in the national mirror committee should not be limited.

2. International level

Priority should be given to representatives of consumer organisations that meet definition 1.

If there is no consumer organization that meets the definition 1, given in 'Definition of a representative in the consumer stakeholder category to the ISO TMB WG SR for Consumer' in a country or if none of the consumer organisations decide to engage in the process then a designated representative from an organisation or agency which meets definition 2 may participate.

(An example of this is a government department or agency handling consumer affairs and recognised by the public as such, or an independent body within a national standards body representing consumer interests).

The consumer stakeholder representative should be committed to the role they are undertaking, which as a minimum requires the representative to be responsible for the following tasks in addition to those stated above, in

1. National level:

- Participate in one or more ISO/TMB/WG task groups
- Participate in ISO/TMB/WG meetings
- Participate in stakeholder discussions and meetings

Participation is understood to involve sharing the national consumer stakeholder position within the ISO TMB WG SR Consumer stakeholder group.

2.1.4 Government Stakeholder Category

Definition

An individual formally selected by a governmental or inter-governmental body to represent it.

- In most circumstances, this individual is likely to be a salaried civil servant, although it would be possible for a governmental or inter-governmental body to select someone from outside of government (e.g. an academic), to represent a governmental body.
- Under this definition, a government could nominate a national standards

body to represent it.

“Government” includes any public sector body, whether it operates at the local, national, regional or international level. The public sector body may take the form of a department, independent commission, board, bureau, office, agency, government owned or controlled corporation of the government.

2.1.5 Industry Stakeholder Definition

The industry stakeholder group includes representatives of:

Enterprises that manufacture products or provide services and pursue primarily commercial interests. This group includes supportive enterprises like energy and water supply, banking, communication, insurance or transport companies. Such enterprises exist of any size and legal form and may operate at local, regional or international level.

Industry also includes employer organizations, business associations, special industry organizations and trade associations representing various industries at the national, regional and international levels.

Excluded are enterprises and other organizations that offer services related to standardization, including certification, registration, accreditation, and related consulting services (SRI services) that pose an inherent conflict of interest. General consulting or advisory services are also excluded unless they have been retained for the purpose of representing enterprises or employer organization in the ISO/TMB/WG/SR process or nominated to represent industry by their national standard bodies.

2.1.6 Labour (from CAG N1)

This category was created for workers as stakeholders and should therefore include only persons designated by independent representative workers’ organizations. This means that it cannot include persons or representatives of organizations that deal with labour or workplace issues but do not represent workers nor persons from the human resource departments of companies or from enterprises providing labour-related services or advice or from NGOs that deal with labour or workplace issues. Obviously, it also excludes representatives of organizations established or effectively controlled by employers, industry or governments in any way.

ILO Convention 135 defines worker representatives as “...persons who are recognized as such under national law or practice, whether they are -- (a) trade union representatives, namely, representatives designated or elected by trade unions or by members of such unions; or (b) elected representatives, namely, representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognized as

the exclusive prerogative of trade unions in the country concerned.” This definition provides the basis for an understanding at the international level as to what constitute genuine workers’ organizations (usually referred to collectively as trade unions) in any specific situation or country. National standard bodies should invite the most representative workers’ organization to nominate an expert. When the standards body is in doubt ICFTU or ILO should be consulted. If ILO is consulted it will apply its procedures for recognizing delegates to the international labour conferences.

NGO

Within the context of the ISO/TMB/WG/SR a non-governmental organization (NGO) is defined as:

A non-profit association of individuals or organizations that has public interest objectives related to the topic of Social Responsibility or any of its component issues.

The following baselines should be considered:

- The mission of the NGO should not be the development of standards, or the provision of standards-related services;
- The NGO should not represent the specific interests of either government, industry, labor unions or consumer groups; and
- Grants or membership dues from, or fee-based services to, for-profit organizations should not be a significant proportion of an NGO’s overall funding or compromise the autonomy of its governance.

Information to be provided by NGO Stakeholder Category members

All organizations participating in the NGO Group shall provide the following information, which will be available to all NGO Group members:

- Proof of charitable/non-profit status
- Publicly available statement of mandate/objectives (e.g. from website)
- Governance structure, including membership and board members’ affiliation
- Sources of funding, including roughly which percentage of total funding is derived from grants or membership dues from, or fee-based services to, for profit organizations.

(Formerly “Other”)

Title: Service, support, research and others

Organisations and individuals, not from other stakeholder categories, that seek to

advance understanding of SR through education, training, academic study and research.

Organizations and individuals, not from other stakeholder categories, that develop voluntary standards, codes of practice and SR related tools.

Organizations and individuals, not from other stakeholder categories, that provide services related to the implementation and support on SR activities.

Annex C: Extract from procedural rules under development in ISO WG SR

Ensuring balanced participation in TGs

1. TG Convenors should keep an up to date register of TG experts and observers, including information on their delegation, stakeholder category and expert status.
2. An aggregated summary of the stakeholder balance in the TG should also be kept up to date and made available.
3. Stakeholder Groups are encouraged to nominate at least one (1) “TG coordinator” for each TG.
4. This TG Coordinator will take shared responsibility, along with the respective TG Convenor, for assessing and ensuring adequate stakeholder balance.
5. Each Stakeholder Group is free to establish its own TG Coordinator nomination process.
6. TG Convenors should review stakeholder balance at regular intervals and, in consultation with the Stakeholder Group TG Coordinators, decide if and how to address imbalances.
7. Temporary imbalances should not restrict progress in the TG.
8. There are a wide range of approaches through which TG Convenors can improve balance, including:
 - encourage WG experts from the under-represented stakeholder group(s) to join the work of the TG;
 - encourage WG experts from the under-represented stakeholder group(s) to comment on a specific issue;
 - give more weight to opinions of the under-represented stakeholder group(s) when determining consensus;
 - seek input on an issue from the relevant Stakeholder Group TG Coordinators;
 - invite ISO members and liaison organizations to recommend special advisors from the relevant stakeholder category who would for a defined time period be granted: expert status in that TG only, observer status in

the WG and relevant Stakeholder Groups, but neither observer nor expert status in other TGs.

9. The WG Convenors will provide logistical assistance in achieving any of the above, including sending requests from TG Convenors to all WG experts.
10. TG Convenors must register all statements of sustained opposition in the meeting minutes. A participant list, including expert and observer profiles, will also be included in the meeting minutes.

Annex D: Rationale for ANEC recommendations related to balanced representation and consensus building

(i) Basic principles of standardisation work

The internationally accepted principles of standardisation in accordance with the TBT Agreement include transparency, openness, impartiality, consensus, effectiveness, relevance, coherence and the development dimension. Whilst these principles require “that the standard development process will not give privilege to, or favour the interests of, a particular supplier/s, country/ies or region/s” and state that “the impartiality and openness of any international standardization process requires that developing countries are not excluded de facto from the process” the balance or imbalance between different social interests is not addressed. Moreover, the concepts of these principles are not clarified and hence remain ambivalent, in particular with respect to “consensus”.

(b) Balance of interests

It seems that the balance of societal interests has not been subject to a systematic and thorough consideration within the standards organisations even though some NSOs do actively promote consumer representation in standardisation. In some cases, bodies representing the consumer interest have been established at the national level. Last but not least, ANEC is recognized by the CEN as CEN Associate and by CENELEC as Cooperating Partner. However, this does not rectify the inherent imbalance in the standardisation system and does not automatically result in a balanced outcome of the process.

The ISO/IEC Directive Part 1 contains an obligation of the national standards bodies to take into account the views of all relevant interests in developing a national position and in determining their delegations to ISO TC or SC meetings (clause 1.7 Participation in the work of technical committees and subcommittees). “*National bodies have the responsibility to organize their national input in an efficient and timely manner, taking account of all relevant interests at their national level*”. Similarly the CEN/CENELEC Internal Regulations Part 2 stipulates that: “*When forming and briefing its delegation to a Technical Committee meeting, a member shall ensure that the delegation will convey a national point of view that takes account of all interests affected by the work*” (3.2.3.1 Responsibilities of

CEN/CENELEC national members).

In our point of view, this provision is too general to be of practical use because there is no definition of “relevant” interests and no guidance on how this should be accomplished in practice. NSBs do not report on the involvement in the decision-making and whether indeed all parties agree with the national point of view. The composition of the national delegations is also at the discretion of the NSOs. There are no provisions in place – neither within ISO/IEC nor within CEN/CENELEC - which oblige NSOs to ensure a balanced composition of their committees or a balanced outcome (except for the ISO SR Guidance Standard). Hence, it is not obvious to which extent the various stakeholders had an influence on the national position building. According to our experience, the national opinions are often determined by business interests and minority views (e.g. from consumers) are “filtered out” by the system. These national imbalances are further amplified at the European or international levels.

Consensus

The term “consensus” is introduced first in the foreword of the ISO/IEC Directives Part 1 as a basic concept: *“Consensus, which requires the resolution of substantial objections, is an essential procedural principle and a necessary condition for the preparation of International Standards that will be accepted and widely used. Although it is necessary for the technical work to progress speedily, sufficient time is required before the approval stage for the discussion, negotiation and resolution of significant technical disagreements”.*

In the part dealing with the various stages of the development of international standards (clause 2) this is further detailed by referring to the definition of consensus contained in ISO/IEC Guide 2:1996: *“consensus: General agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking to take into account the views of all parties concerned and to reconcile any conflicting arguments. NOTE: Consensus need not imply unanimity.”*

Some procedural guidance is also provided: *“Within ISO, in case of doubt concerning consensus, approval by a two-thirds majority of the P-members of the technical committee or subcommittee voting may be deemed to be sufficient for the committee draft to be accepted for registration as an enquiry draft; however every attempt shall be made to resolve negative votes”.* This applies to the committee stage. *Every attempt shall be made to resolve negative votes”* This applies to the enquiry stage.

However, it is not clear what “sustained *opposition/ substantial objections*” means and how it can be expressed. Whilst the definition in the foreword of the ISO/IEC Directives Part 1 uses the term “substantial objections” the ISO/IEC Guide 2 uses the notion “sustained opposition”. The two expressions have different connotations. Whilst the former seems to indicate a strong disagreement, the latter suggests a continuous or persistent activity, a repeated expression of disagreement.

Moreover, there are no rules for registering such disagreement. One possible option could be that a sustained opposition is expressed through a negative vote. But the provision that “*in case of doubt concerning consensus*” a voting result (two-third majority of the P-members) is considered sufficient to register a document as enquiry document suggests that negative votes do not exclude consensus and do not have to be resolved automatically. A second option could be that “*sustained opposition*” refers to something else than a negative vote without clarifying it.

Finally, there is no guidance on who is allowed to express a “*sustained opposition*”. Whilst the definition of consensus talks about “*absence of sustained opposition to substantial issues by any important part of the concerned interests*” seems to include the views of ISO liaison organisations, the provision that “*every attempt shall be made to resolve negative votes*” appears to limit the consensus building to the ones allowed to vote and thus able to vote negatively – the NSOs. In both cases the ISO/IEC rules are inconclusive, even contradictory.

The CEN/CENELEC Internal Regulations Part 2 use the term consensus in a number of places, but no definition is given. For example, a chairman of a technical committee should try to reach consensus: “The chairman shall do everything possible to obtain a unanimous decision of the Technical Committee. If unanimity on a subject is not obtainable, the chairman should try to seek consensus rather than rely simply on a majority decision”. It seems that the provisions of the European standards bodies rely on the ISO/IEC definitions.

ANNEX III

**ANEC position on the future challenges of ICT standardisation
(ANEC2005/ICT/035, April 2005)****Executive summary**

The importance of Information and Communication Technologies (ICT) has been recognised in the Lisbon Strategy 2000, which aimed to make the EU the most competitive and knowledge based society in the world by 2010. With the re-launch of the Lisbon Strategy - as Jobs and Growth strategy - agreed by the European Council in early 2005, the European Commission decided to start a new initiative aimed at boosting competitiveness in the ICT sector. The new programme *i2010* (or European Information Society 2010) intends to create an internal market for electronic communications and digital services and make the European Information Society as inclusive and accessible as possible. Standardisation plays a key role in the widespread use of ICT products and services by consumers⁶ in terms of accessibility, interoperability and safety.

Due to the enormous impact of the Information Society on the consumer, it is vital that standards elaborated for Information Society products and services take into account the views of the consumer. As a consequence, it is essential that the ICT standardisation process ensures full and effective consumer participation whilst responding to the fast changing specific market needs.

The aim of this position paper is to present ANEC's point of view on the future challenges of ICT standardisation and the impact on consumers in the overall political debate that is currently taking place at the European level.

ANEC believes that ICT standardisation should be based on the following principles, which go beyond the WTO TBT Agreement "Code of Good Practice for the preparation, adoption and application of standards":

- 1. Openness and transparency;**
- 2. Enhanced consumer participation;**
- 3. Consensus;**
- 4. Implementation and assessment of standards;**
- 5. Cautious use of New Deliverables and non-formal standard setting fora.**

⁶ The consumer is a natural person or group of persons using products and/or systems for purposes, which are outside his or her trade, business or profession.

Background

The European Commission released, in October 2004, a Communication on the role of EU standardisation in the framework of European policies and legislations, as well as a Staff Working document of the challenges for European Standardisation with Annex 2 dedicated to ICT standardisation⁷.

Both documents acknowledge that the ICT marketplace has changed over the years entailing a shift from hardware to software and to products and services with short-term life cycles. This implies a shift from traditional forms of standardisation towards informal standards setting fora and consortia. The Commission states that standardisation in support of legislation in the ICT sector should be reviewed as the role and structures of European Standards Bodies are challenged by the increasing role of fora and consortia.

ANEC too is of the opinion that there is a genuine need to reform the standardisation system so as to ensure effective consumer participation in order to develop standards that meet consumers' requirements, both in the ICT sector and in general.

PRINCIPLES OF STANDARDISATION IN THE ICT SECTOR

1. Openness and transparency

- **Availability of standards**

ANEC is of the opinion that standards should be widely available to all interested parties and not be used as a means of market segmentation. Therefore, ICT standards should either be free of Intellectual Property Rights concerns, or licensable on a fair, reasonable and non-discriminatory basis (FRAND). In addition, ANEC members appreciate the use of clear performance indicators to evaluate the output of public supported standardisation activities. Such indicators should refer to consumer interests and free availability of standards.

- **Open standardisation process**

ANEC recognises the need of increasing the efficiency of the standards bodies, namely the timely development of standards to respond to the fast moving ICT sector. However, decreasing the lead-time should not be achieved at the expense of quality and democracy. Therefore, ANEC believes that a balance between efficiency and openness must always be maintained.

⁷ Commission Communication COM (2004) 674 of 18.10.2004 and Commission Staff Working Document 'The challenges for European standardisation' of October 2004.

The standardisation activity must be carried out under a public process, which implies that participation should be open to all interested parties. A public comment phase before the adoption of the standard is the appropriate way to ensure public scrutiny whereas it is not sufficient to obtain effective stakeholders involvement by making the activity publicly known ex post. The draft standards should be available on the standards organisations web page (without restricted access) in order to have an open consultation via the Internet.

From a consumers' point of view, the elaboration of open standards in a focused or closed group within the ESOs is only acceptable when they do not deal with mandated work or issues dealing with health, safety, environment and basic legal and economic interests of consumers.

2. Enhanced consumer participation

- **Availability of resources**

Although ICT standardisation is not exclusively based on national voting and representation, consumer participation is still lagging behind because of the lack of human and financial resources, especially at the national level. This is the result of the survey that the European Commission (DG SANCO) published in early 2005 to assess the participation of consumer representatives in the work of standard-setting bodies.

The findings of the survey confirm the results of earlier ANEC studies, mainly that in many European countries, consumer participation in national standardisation is rather weak or hardly exists, particularly in the new Member States.

Given that lack of public funding is one of the major obstacles for consumer participation in standardisation, it is crucial to provide funding for the co-ordination of consumer participation at EU level and to encourage national governments to provide resources to consumer organisations at national level.

The difficulty is how to achieve this. ANEC believes that legislation is needed to commit Member States to provide earmarked funds for consumer participation in standardisation without the payment of membership fees, for instance in a European standardisation law. This legislation should also refer to adequate structures for balanced representation of consumer interests.

- **Balanced representation**

European standardisation is supposed to be an open, transparent and consensus-driven process, which allows all stakeholders to participate and to

safeguard their interests. Most often, however, industry representatives dominate standardisation committees. Therefore, ANEC calls for adding the concept of balanced representation to the list of standardisation principles, to which the European standards bodies commit themselves, so that the European standardisation system ensures that all parties concerned are actually involved in a balanced way, that their views are adequately taken into account and that mechanisms are in place and accessible to all stakeholders to reconcile conflicting arguments. A practical tool would be to publish the names and affiliations of the experts participating in the standardisation process.

- **Consumers as users**

Consumers are often referred to as users of ICT product and services, together with Governments, Small and Medium Sized enterprises and non-ICT companies.

In ANEC's opinion, this definition does not capture the whole range of stakeholders' interests. Consumers use products and services systems for purposes which are outside their trade, business or profession. This non-differentiation between users and consumers is particularly unfortunate when it is essential to define the specific requirements in the standardisation process.

ANEC urges standards bodies and ETSI in particular, to recognise consumers as a specific category, in order to better identify and meet their requirements.

3. Consensus

An open standardisation process should be based on consensus which means no adoption of standards against sustained opposition of one group of stakeholders. When the national representation rule applies, it is essential that the various stakeholder positions are properly identified in addition to national views at all stages of the process. There should be a form of indicative voting for stakeholder organisations involved directly at the European or International level.

ANEC also sees a need to reform the standardisation system which will not be attained in one leap and a mix of instruments seems reasonable: for instance, enshrine in a general European standardisation law that standards implementing public policies have to be based on a consensus of all parties involved.

4. Implementation and assessment of standards

ANEC would like to stress the importance of the implementation of standards which meet consumer requirements, for instance with respect to

eAccessibility. We believe in fact, that is crucial to develop resources and strategies to globally promote standards, in particular those taking into account consumer needs. Consumers see standardisation as an appropriate tool to enhance basic consumer requirements such as safety, accessibility, security and privacy.

The establishment of internal mechanisms within standards organisations to monitor the implementation of standards would provide stakeholders with essential information on their market uptake and usefulness. ANEC suggests to set up a quality control system to evaluate the process and the content of mandated standards of public interest.

5. New Deliverables and non-formal standards setting fora

Most often, the formal standards-making process is too slow to produce the standards required by the ICT market in due time. The ESOs took action to meet market needs by developing so called *New Deliverables* such as the CEN Workshop Agreements (CWAs). ANEC recognises the need expressed in some areas by the market to develop specifications in a way faster than is possible with formal European standards. We do however, object to the reference, *New Deliverables* in European legislation, in particular when dealing with health, safety, environment and basic legal and economic interests of consumers.

The main reason for this position is inherent in the characteristics of *New Deliverables*, for instance CWAs. First of all, they do not require full stakeholder participation. Public enquiry is possible but not mandatory. CEN members are not responsible for the content. Last but not least, the lifetime of CWAs is limited to three years. Even though transformation into another deliverable is not excluded, the former Workshop participants might decide to withdraw the CWA.

Another response to the specific ICT market needs has been the considerable growth of informal industry lead standards consortia producing their own technical specifications. Informal standardising bodies may establish a closed group, often for commercial benefit, the output of which may not be publicly available.

From a consumer point of view, the lack of transparency and consensus involved raises concerns because they impede proper consumer participation.

However, ANEC, acknowledging the reality of the ICT standards scene, suggests the review of non-formal and alternative models of standardisation in terms of structure, openness, access, balance of interests, aims, values, and efficiency, to identify best practices for the established standards bodies. At the same time ANEC may consider becoming actively involved in some of the non-formal and alternative standard setting organisations to defend



consumer interests.