

# Consortium Standards Bulletin

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Attorneys at Law

#### **CONSIDER THIS**

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## #47 Standards and Innovation (and Standards Degradation)

One canard that is occasionally thrown out by a vendor in a corner is that "standards stifle innovation." In fact, of course, nothing could be farther from the truth, because when vendors agree upon a standard at an appropriate level of detail, they help create a larger market. This increases the profit opportunity, and provides a growing incentive for more vendors to enter that market. Since all products must be identical at the level of the standard, vendors can only compete by adding additional desirable features, improving quality, and competing on price. The result is what is often referred to as a "virtuous circle" of incentives and results.

If that sounds like standards spin, consider your car, which implements thousands of standards, covering virtually every one of its parts, from the tires to the radio. And yet competition is relentless to upgrade the basic product ("car") by adding new features, and improving old ones, despite the fact that profit margins on most cars are quite slim.

The reality is that the great majority of standards help create meaningful choices, rather than limit them. True, some standards can restrict choice, and sometimes even in an arbitrary fashion, due to practical or economic reasons. But then again, you've probably never been heartbroken over your inability to buy a 42 watt light bulb.

No, the problem isn't standards imposed by consensus agreement among those that implement them, but *de facto* standards imposed by single product or service providers that accumulated the market power to mandate them. When a customer has no choice but to buy, then a vendor or service provider has little incentive to offer her any more than the bare minimum needed to separate the customer from the cash. Or, as Henry Ford famously observed when the only reliable, affordable car you could by was his Model T, "You can have any color you want, as long as it's black." Of course, when competition increased, every manufacturer – including Henry – offered multiple color choices.

In most cases, *de facto* standards – like the Model T – eventually lose out. Either competitors meet or beat the price, or the patents expire, or a better technology or idea enters the marketplace. *De facto* standards that do achieve relative immortality therefore tend to be arbitrary (e.g., the 24 hour day, and weights and measures) or utilitarian, with no commercial advantage to be gained by superseding them with anything different (like the dimensions of light sockets). But even in such cases, the standard must be doing a pretty good job, or even it will eventually be replaced, notwithstanding the huge inertia that may lie behind it.

As a result, it takes highly unusual circumstances for a really, really crummy standard to persist in the marketplace. But it does happen, and I expect you already know what the absolute worst, most inexcusable, most unconscionable most despicable example of such design negligence is.

Can't think what it is? Well then, let me help you out, as I once again invite you to Consider this:

I speak, of course, of that most detested excuse for a garment, the hospital "jammy."

Anyone that has ever had a physical exam, or spent time in a hospital, has become intimately acquainted with this miserable scrap of fabric, which for reasons unknown is identical and uniform in every examination room, clinic and hospital in the United States. In short, a standard, or more accurately, a standard implementation of a standard. And both the standard itself, as well as its implementation, are examples of what can only be regarded as standards and implementation malpractice, respectively.

Or, perhaps, as standards degradation. Perhaps, once upon a time, jammies walked the earth (or lay on shelves; whatever) that actually did a competent job. If so, both the standard as well as the implementation certainly went terribly, tragically wrong over time. Through lack of competition and innovation, the jammy eventually deteriorated into the sartorial equivalent of the appendix, offering little obvious benefit, but significant potential for unhappiness during a hospital stay.

How could this occur? The answer can be instructive, as it demonstrates why consensus based standards work, and why proprietary, *de facto* ones usually don't.

Let's find out by performing a simple thought exercise, and develop an appropriate standard that we'll call *People Friendly Jammy (PFJ) 1.0.* As we all know, a consensus standard should be created through the input, and meet the needs, of all relevant stakeholders (i.e., those that will benefit from, or be affected by, the final standard). So of course we'll start by stating the requirements the standard should meet from the perspective of the two principle stakeholder groups that will need to interact with implementations of PFJ 1.0: the service provider, and the customer.

**Service provider goals:** "One size fits all;" inexpensive; easily cleaned; able to render the subject (you) readily accessible for visual and instrumental examination, probing and other indignities.

**Customer goals:** Easy to understand and put on; warm; capable of covering total body surface area when portion of same is not needed for examination, probing, etc.; capable of preserving human dignity, as compared to rendering the subject ridiculous; capable of providing comfort under stressful conditions; capable of reducing feelings of vulnerability and isolation in an alien environment.

Now let's do a sanity check: do we see any mutually exclusive requirements above? No? I don't, either. So we're good to go!

With this much accomplished, we should now be able to come up with the specific design elements of PFJ 1.0. Just for fun, though, also we'll see how the elements of the real world market implementations of the garment standard stack up (we'll call this one **Jammy Piece of Crap (JPC) 1.0** standard with which we are all, all too familiar. To make the effort appropriately scientific, we'll score the success of each element to meet the requirements of the service provider, on the one hand, and the customer on the other. Scoring is 1 - 10 (with 10 being highest). Finally, we'll underline and place in italics those elements of each standard that can actually be found in current market examples of examination room jammies. Those that have evidently not made their way into the *de facto* market standard will be found in plain text.

I think we're all ready, except to give our little thought experiment an appropriate title, which will be:

MARKET STUDY: BATTLE OF THE JAMMIES							
Design	Design	JPC 1.0	Needs Fulfillment Score				
Area	Element	Implementation Characteristics	Service Provider	Customer			
Service Pro	vider criteria	Characteristics	TTOVIDEI				
<u>Cost</u>	Materials	Uses minimal design, materials and workmanship	10	N/A (drop in the medical budget)			
<u>Utility</u>	<u>One size fits all</u>	Nominally achieves goal, but is too small for most, and too big for some. Closures totally fail to meet one size fits all goal effectively	5	1			
	<u>Cleaning</u>	Easily cleaned	5	N/A (drop in the medical budget)			
	Visibility of you	No kidding, not only to the examiner, but to everyone in the hallway as well	10	1			
Customer n			1				
Design	Ease of understanding	Incomprehensible; typical subject struggles to come up with most-approximate solution to problem posed	N/A (not a cost item)	1			
	Coverage	Ensures that a significant percentage of one's rear surface cannot be covered	N/A	1			
	Cut	cannot be worn without looking totally ridiculous.	N/A	1			
<u>Closures</u>	Snaps	randomly placed along the top edge, and scattered in such a way as to provide no clue as to the manner in which they are to be matched up. <i>Optional, but</i> <i>very popular feature:</i> one or more snaps should be broken or missing	N/A	1			
	Cloth ties	Again, scattered in such a way as to (etc.), and placed in such a way as to be difficult, and ideally impossible, to tie without the assistance of someone who isn't there. <i>Optional,</i> <i>but very popular feature:</i> Missing ties, with the ideal total number of ties to be <u>one</u>	N/A	1			

### MARKET STUDY: BATTLE OF THE JAMMIES

<u>Fabric</u>	Weight	Provides negligible	N/A (except	1
		insulation	re cost of	
			fabric)	
	Privacy	As thin as possible, to the	N/A	1
		point of being semi-		
		transparent; leaves large		
		portions of anatomy visible		
	Appearance	Like a well-used dustrag	N/A	1
		(when new)		
Experience				
Service		Empowered, through being	10	
Provider		able to order the customer		
		to don something that no		
		sentient organism would		
		ever willingly wear, and		
		then forcing the customer		
		to interact while in the		
		disadvantaged position		
Customer		Like a lab rat. Customer is		-10
		made to feel helpless,		
		ridiculous and totally at the		
		mercy of the service		
		provider		
Final Scores	S	40	0	

How shall we analyze the results of this little exercise? The most important result to observe is that the standard implementation of the jammy that is in use today scores abysmally in every single design element that is important for the user, even though in most cases there is neither a corresponding benefit, nor an avoided disadvantage, to the service provider to explain this result.

From this, we can observe the following:

1. In order for a standard to meet the needs of all, its designers must first be aware of what those needs may be. This can best be accomplished by allowing all stakeholders to have input into the creation of the standard.

2. A standard can be flexible, as long as there is competition. Note that the jammy standard does not *require* that the customer gets the shaft, although it does *permit* it. If a patient knew that one hospital had a jammy that met her needs, she would at least express displeasure when she was handed the traditional offensive model by a competing service provider.

3. In the absence of choice, there is no incentive to honor the needs of the customer at all. Medical facilities and service providers do compete fiercely at other levels, and innovate and compete on price at those levels, in order to steer customers their way. But once the mouse (you) is in the trap (the examining room), the urge to please plummets.

4. Lock in (through the insurance provider or the physician that makes the referral) is powerful.

5. There is no correlation overall, and indeed rarely as to any individual element, between a high score for the service provider and a low score for the customer. What is most evident is

negligence and disregard for the recipient of the service, rather than sacrificing a desired benefit for a customer in order to satisfy a particular need of the service provider.

What our exercise demonstrates most dramatically is not that the control of a *de facto* standard will not automatically *cause* a vendor or service provider to consciously take advantage of its customers, but that it will *allow* it to become totally indifferent to its customers opinions and needs. Either way, the vendor-customer relationship has become totally one-sided, with the customer receiving only what the vendor or service provider chooses to offer. The vendor can take advantage of the power relationship that it enjoys at any time, even to the point of abusing its customer.

Right now, regular readers might be asking themselves if there is not in fact another product in the marketplace that I might be thinking of, one that represents an even more egregious and pernicious example of how a vendor can exploit a *de facto* standard to the detriment of its customer.

Could I be thinking of such a product?

I could. And in fact I am. I bet you can guess what that product is, too, but for the benefit of those that have stumbled into this site for the first time, I'll be willing to share it.

So here it is: Have you ever had to wear one of those blue paper, *disposable* jammies, with the squared off shoulders, that make you look like a Jack of Hearts in a pixie uniform wearing an apron?

No? Well, don't get me started....

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Comments? updegrove@consortiuminfo.org

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