

UPDATES

CSB ARTICLE SPURS ACTION TO PROTECT CONSORTIA (H.R. 1086)

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Abstract: *Spurred by a flurry of reaction to the April issue of the Consortium Standards Bulletin and with ANSI's help, language has been added to the Congressional Judiciary Committee Report accompanying H.R. 1086, to prevent the Bill from restricting anti-trust protections to a handful of government-recognized SDOs.*

In the April issue of the Consortium Standards Bulletin, we detailed and analyzed several key implications of Congressional Bill H.R. 1086, currently under review, which addresses the eligibility of many standard setting consortia for a measure of immunity from antitrust penalties under the National Cooperative Research and Production Act (NCRPA).

We were delighted by reaction to the article, which suggests that its appearance helped a number of organizations, as well as individual companies, recognize and more fully understand the scope and potential consequences of the Bill, as it would affect them and the standards setting community as a whole.

We are especially pleased to report that the article initiated a dialogue with the American National Standards Institute (ANSI), which has been actively involved in the Congressional initiative and the drafting of H.R. 1086. ANSI subsequently agreed to propose the inclusion of language addressing our concerns, regarding its potential to negatively impact consortia, in the report submitted by the House Judiciary Committee in connection with the Bill. The language, drafted by Lucash, Gesmer & Updegrave, states that H.R. 1086 should not be interpreted to imply that consortia are not eligible for NCRPA coverage.

We are grateful to ANSI for its cooperation in submitting this language for inclusion in the Committee report and pleased to partner with ANSI for the benefit of the entire standard-setting community. The House has not yet voted on H.R. 1086, and should the outcome be less than favorable, there will still be opportunities to influence debate when the Bill reaches the Senate floor. Standard setting is still a relatively new and unknown arena, but an extremely important and burgeoning one. While it has traditionally received little public or governmental attention, recently it has gained considerable attention by the media (Bluetooth, W3C, etc.), the Federal Courts (Rambus v. Infineon), the FTC (Rambus antitrust suit), and Congress (H.R. 1086). We encourage continued involvement by consortia and their members in encouraging Congress to act favorably toward standard setting in any industry-recognized venue.
