

INTRODUCTION

Following various discussions during 2007, Global Inventures presented a proposal to work with the INCITS EB 'on spec' to commercially lever INCITS' unique (in the US) ability to fast track specifications produced outside INCITS into the ISO/IEC JTC 1. The INCITS EB approved the proposal on September 13, 2007, and authorized the INCITS secretariat to take next steps with Inventures to define the Fast Track engagement program, specifically the Term Sheet (see below), market engagement process, program launch and ongoing management, resources and roles needed, and ongoing Inventures/INCITS relationship.

The target originally was to deliver a full proposal to the INCITS EB for go/no go at the next F2F EB meeting January 14-16, 2008. The proposed revised target is to present a draft term sheet at this meeting, and to flesh out all remaining program details for EB go/no go decision at the next F2F.

Accordingly, this document addresses the term sheet component of the program. To recap, this component is intended to specify the structural, process and procedure, governance and IPR principles acceptable to INCITS when considering applications from industry consortia and SIGs to fast track their specifications to an approved ISO/IEC JTC1 standard under INITS auspices. The goal is to encourage participation in the fast track program while preserving INCITS' reputation and role in the standards ecosystem.

The remainder of this document addresses the key elements that guide the creation and operation of industry consortia and SIGs, the range of options for each element, and a recommended INCITS position for each. We expect the actual INCITS position in each case to result from discussion between Inventures and the INCITS ad hoc committee constituted to work on this matter.

INCITS TERM SHEET ELEMENTS

We propose that INCITS take a stance on the following elements when considering an application from an industry consortium or SIG to access the INCITS program to fast track their specifications to become an approved ISO/IEC JTC1 standard:

1. Purpose and Mission

Industry consortia and SIGs typically form with laser beam focus on specific ICT issues—often not just in relation to a part of the value chain (e.g. semiconductors) but within it (e.g. power management). Given that INCITS itself sponsors standards initiatives through the ICT value chain, a first step is to perform a gap/overlap analysis between the consortium's specifications and those 'in flow' at INITS. The gap scenario does not present issues in moving forward; the overlap scenario will require some INCITS adjudication.

2. Membership Policy and Rights

Industry consortia and SIGs typically come into existence because several (2-3) ICT companies identify a pain point in the market and desire to develop solutions that can be supported and deployed through a purpose built industry ecosystem. The goal is to achieve quick time to market while also building a tall and wide tent. Membership policy modulates between these (potentially orthogonal) aspirations and varies from a *pay to play model* where annual membership fees and rights are tiered to the level at which an entity can join, to a flat *community model* where any entity can join at any level and the fees and rights are the same for everyone.

We recommend that INCITS consider the following baseline membership policy for fast track acceptance:

- ❖ Prefer the flat community model but not require it
- ❖ Accept a pay to play or tiered rights and fees structure *if* there is a clear process to add entities at the highest level of membership when there is a cap *and if* any entity can join at any membership level(s) below that top level (i.e. accepted solely upon submission of appropriate materials and fees)

We believe that this policy preserves the need for inclusiveness while accommodating the consortium/SIG structures in evidence today.

3. Board Composition

Industry consortia and SIGs attempt to balance nimbleness, which typically leads to a smaller, tightly aligned group, with value chain representation, which typically results in a larger, more disparate grouping. Policy and practice here varies from a set and capped number of permanent seats for entities at the top membership tier to annual elections among all eligible entities for a set number of seats.

We recommend that INCITS consider the following baseline Board composition policy for fast track acceptance:

- ❖ Recognize that at the outset consortia/SIGs require continuity at the Board to execute the organizational objectives contemplated by the initial movers
- ❖ Accept that the Board may be composed of the initial movers for some period of time (e.g. up to two years) from the date the Board is first constituted
- ❖ Require that staggered elections be held each year after the initial static period among all those eligible for Board seats to populate the Board.

We believe that this policy provides the consortium with the leadership continuity it need in the early stages while providing for checks and balances in representation and accountability in later phases.

4. Committee/Work Group Participation

This element is a function of the membership policy. In the pay to play/tiered model, leadership, participation and voting rights in all or some committees and work groups is a specific right of each membership level, while in the flat/community model any entity can lead, participate, and vote in any committee or work group. Policy and practice here again varies in relation to the time to market and inclusiveness vectors.

We recommend that INCITS consider the following baseline committee/work group participation policy for fast track acceptance:

- ❖ Recognize that many consortia/SIGs will adopt a hierarchical structure, with steering committees established to direct organizational objectives and work groups organized beneath to perform supporting task-specific work.

- ❖ For committee participation, provide for eligibility to extend at least one level below the top tier with an election process if there is a cap on the number of seats; and, allow for committee leaders to be elected by the committee once it is established.
- ❖ For work group participation, provide for eligibility and voting to extend to all membership levels, with work group leaders elected by the work group once it is established.

We believe that this policy provides a platform for participation by each entity in the consortium subject to the level at which they have chosen to join.

5. Submissions and Selection

In delivering solutions for the pain points they have identified, industry consortia and SIGs attempt to balance delivering a perfect solution with one sized to meet the most critical needs and enable rapid deployment and proliferation of compliant and interoperable solutions.

A variety of processes are used. One typical process is for eligible participants to develop a Market Requirements Document (MRD), invite proposals against the MRD from eligible consortium members, and select the solution through MRD metrics and field tests. Another process is to define requirements in a public RFC type mode and to adopt a consensus community solution. Once again policy and practice here rests on time to market and inclusiveness vectors.

We recommend that INCITS consider the following baseline submission and selection policy for fast track acceptance:

- ❖ MRD developed with input solicited from all consortium members and finalized/approved by a designated committee
- ❖ Proposal submission rights to extend at least one level below the top tier
- ❖ Proposal selection performed to a defined and transparent process, including final decision making

We believe this policy provides for a competitive process and input at some stage from all levels of the organization.

6. Decision Making

Industry consortia and SIGs seek to follow a decision making process relevant to the structural and membership policies adopted. Decision making can rest solely with the Board; it can involve the Board, Committees, and Work Groups hierarchically; or it can disconnect these entities such that the Board has fiduciary and oversight responsibility, and the committees and/or work groups can make and implement decisions independently.

We recommend that INCITS consider the following baseline decision making policy for fast track acceptance:

- ❖ Board maintains final decision making for IPR policy, annual budget, committee establishment/disbandment, work processes and procedures, specification selection, logo programs, resource procurement and all acts required by law
- ❖ Committees and work groups progress activity requiring final approval by Board to 0.9 level following prescribed work flow and voting processes, and otherwise act independently

We believe this policy balances oversight, responsibility and control through the organization

7. IPR and Licensing Policy

IPR and Licensing policies adopted by industry consortia and SIGs run the gamut from RAND, RAND-Z, RF, Non-Assert and Open Source. They vary depending on sector (hardware or software oriented) and corporate policy (some companies can only participate in RF oriented consortia while for others RAND-Z is the minimal acceptable policy). Rules for necessary/essential claims disclosure, licensing terms disclosure, obligation to license and to whom, and the treatment of submitted IPR with withdrawal also vary widely. The permutations and combinations are complex and myriad.

We recommend consideration of two possible positions regarding IPR and Licensing policy for fast track acceptance:

- ❖ Require the consortium/SIG to affirm that their specification will conform to the INCITS and ISO IPR policy if accepted by either party; and/or
- ❖ Require the consortium/SIG to affirm that an IPR policy exists, that the owners of the necessary/essential claims in the specification are known and that they are obligated to license those claims to all other members of the consortium

We believe that INCITS' role here is to confirm that the consortium can synchronize its IPR policy with ISO/IEC requirements

8. Deliverables Dissemination and Use

Industry consortia and SIGs produce specifications and reference implementations, develop and manage compliance and certification programs; they also perform market development but that is not an issue in this context. The dissemination of specifications and ability to certify and use related logos ties to membership value propositions (and hence funding), and policy and practice here varies from keeping specifications and ability to certify within the consortium to general release of specifications and use of certification.

We recommend that INCITS consider the following baseline dissemination and use policy for fast track acceptance:

- ❖ Accept that influence on and early access to technical output, and ability to certify products are a key value proposition for consortium membership
- ❖ For specifications, require ability for non-members to purchase some period of time after release to members of the consortium
- ❖ For certification, require non-members to have the right to certify even if the fees are higher than for non-members

We believe this policy enables the consortium to protect its membership value proposition and funding mechanisms while providing for wider dissemination and use of the solutions.

TERM SHEET IMPLEMENTATION

Once INCITS has approved a term sheet- with some or all of the elements detailed here and perhaps additional INCITS criteria- the focus will be implementation. We would propose these next steps:

- ❖ The recommendations we have presented are single syntheses of many possible shades given the range of options involved in each element. Accordingly we would recommend developing the term sheet as a questionnaire, and distributing it externally as such.
- ❖ Within INCITS, we would propose scoring responses against the agreed baseline policy in each case with the goal of establishing an *overall* pass/fail score versus a pass/fail on each element. This has the benefit of a quantitative assessment over a subjective measure. It also gives each consortium the ability to participate in the fast track program based on overall characteristics, even if their practice on individual elements is not at the desired norm.

We note that we have not performed any anti-trust analysis and that legal counsel will be necessary to ensure that the term sheet itself and its prescriptions are permissible relative to INICTS/ITIC role.

DOCUMENT NOTE

The material in this document is being provided as a courtesy to INCITS, to provide context for our recommendations on the term sheet. We note that the material is a subset of our best practices counsel, which in turn is based on more than 15 total years and 150 people years of ongoing consortium incubation and structuring experience. Inventures charges clients consulting and ongoing fees for this counsel in the consortium incubation and structuring phase.

Accordingly, we respectfully request that the INCITS EB and individual companies limit use of this material to the fast track program, and also refrain from preparing and disseminating derivative works.