

ADMINISTRATIVE COUNCIL FOR TERMINAL ATTACHMENTS (ACTA)

MEETING DATE: August 1, 2003

TITLE: Report of the 30-Day Public Notice Period Working Group

SOURCE*: Trone Bishop - LEC Primary Representative

PURPOSE: Decision

DISTRIBUTION TO: ACTA Council and Staff

ABSTRACT

Contribution ACTA-03-06-11-06, presented at the June 11, 2003, meeting of the ACTA, proposed clarifications and improvements to the ACTA OP&P associated with the handling and adoption of documents requiring a 30-day public notice period. In response to that contribution, the ACTA formed a working group to draft specific changes to the ACTA OP&P. This contribution contains a report of the work of that group. This contribution provides an overview of the documents published by the ACTA (attachment A), a flowchart showing the revised 30-day public notice process (Figure 1), a report of the working group conference calls, a summary of the changes that the working group agreed to make, and the proposed new text for section 10 of the ACTA OP&P (Attachment B).

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Summary of Changes Proposed for Section 10 of ACTA OP&P Version 1.5

1- Expand section 10.2.3 (procedures related to the public notice for technical criteria) to include the current practices.

- The ACTA shall
 - (1) issue a public notice of its intent to adopt and publish proposed technical criteria, and,
 - (2) make the technical criteria available for public download and review for a 30 day period.
- If ACTA receives no comments within the prescribed 30 day period, ACTA shall adopt and publish the technical criteria document and it becomes the presumptively valid requirement for the prevention of harm. ACTA will advise the SDO of ACTA publication requirements of 10.1.3.
- Parties aggrieved by the submitting standards development organization's (SDO) to put forward specified technical criteria to the Administrative Council for publication must appeal the decision through the SDO's ANSI-accredited appeal procedures.
- Interested parties have 30 days to appeal any aspect of the proposed technical criteria to the SDO or to the FCC. Parties appealing the proposed criteria must also provide notice of its appeal to the ACTA.

2- Revise section 10.3 to include a reference that the ACTA will advise the SDO of the ACTA publication requirements of 10.1.3.

3- Revise section 10.3.4 to make the terminology consistent with the text adopted for technical criteria documents.

4- Add a new section 10.4 that provides procedures for the submission and consideration of comments received during the 30 day public notice period.

- Comments must be received within 30 days.
- Comments may be submitted to the ACTA by letter, facsimile, or e-mail.
- Comments must include the name of the submitter, the submitter's contact information, a detail explanation of the comment(s), and the requested remedy.
- Information submitted to the ACTA in connection with filed comments will be available to the general public.
- Comments submitted to the SDO must conform to the submission requirements of the SDO.
- The ACTA may submit comments to the SDO, prior to or during the 30-day public notice period, when the document, in part or in whole, impacts ACTA's administrative functions.
- ACTA may file comments directly with the FCC for *de novo* review in accordance with 68.614(b).
- If comments submitted by ACTA to the authoring SDO during the 30-day public notice period are not resolved to the satisfaction of the ACTA, the ACTA reserves the right to delay publication of the document pending an FCC *de novo* review in accordance with 68.614(a).
- To encourage participation in SDO meetings to consider filed comments, the ACTA, when feasible, will make available on its website advance notice of the SDO meeting to resolve comments and the proposed agenda for the meeting.
- If the authoring SDO (a) makes no changes in response to filed comments or (b) makes only editorial non-substantive changes in response to filed comments, the SDO shall notify the ACTA by letter, facsimile, or e-mail that
 - (1) all comments have been considered,
 - (2) no changes or only editorial changes have been made to the document, and

(3) the ACTA may proceed with publication.

- In such cases, the ACTA will advise the SDO of the ACTA publication requirements in 10.1.3.
- If the SDO makes technical changes as a result of comments, the procedures of the SDO with regard to a default letter ballot and an additional ANSI review period may also be applicable. The SDO shall notify ACTA by letter, facsimile, or e-mail that they are withdrawing the document in order to disqualify publication by the ACTA of the original document submitted to the ACTA.
- The preceding does not prohibit the SDO from resubmitting a revised document for a new 30 day ACTA public notice period after it has completed its default letter ballot and additional ANSI review period if applicable.
- If comments submitted by ACTA to the SDO, prior to or during the 30-day public notice period, are not resolved to the satisfaction of the ACTA, the ACTA may delay publication pending an FCC *de novo* review in accordance with 68.614(a).

5- Add a new section 10.5 that covers appeals of technical criteria after publication by the ACTA. (Material from Order on Reconsideration.)

6- Add a new section 10.6 that covers appeals of technical criteria that are former FCC rules. (Material from Order on Reconsideration.)

Report of the ACTA 30-Day Public Review Process Working Group

June 11, 2003 - Formation of the Working Group.

During the June 11, 2003, meeting of the ACTA, contribution ACTA-03-06-11-06 proposed clarifications and improvements to the ACTA procedures associated with the handling and adoption of documents requiring a 30-day public notice period. In response to that contribution, the following individuals expressed an interest in participating in a working group to draft specific changes to the ACTA OP&P: Trone Bishop, Milton Bush, Cliff Chamney, Megan Hayes, Tim Jeffries, Brian Krasney, and Jimmy Salinas. Mr. Bishop agreed to Chair the working group.

June 19, 2003 - First Conference Call.

At the request of the Working Group Chair, Mr. Jeffries made arrangements for a conference call to discuss proposed changes to the ACTA Operating Principles and Procedures. The call was limited to a discussion of the mission/scope of the working group and a discussion of a flow chart illustrating some of the proposed changes to the 30 day review process.

The call was held June 19, from 3:30 to 4:30 PM EST. Tim, Brian, Cliff, Jimmy, and Trone participated.

The working group reviewed the various types of documents that the ACTA handles and discussed the differences in the processes associated with each type of document. (See Attachment A.)

The working group agreed to limit the scope of its work to a review of the procedures associated with technical criteria and the 30-day public review period for SDO-submitted technical criteria and informational documents.

The working group agreed to call itself the "30-Day Public Review Process Working Group."

The working group agreed that its mission was as follows:

The mission of the 30-Day Public Review Process Working Group is to determine the desired procedures to be used in connection with technical criteria and the 30-day public review period for technical criteria and informational documents submitted by SDOs and to recommend, if necessary, revisions to the ACTA OP&P to clarify and implement the desired procedures.

The working group also reviewed a flow chart (Figure 1) depicting the various events leading up to a 30-day public review and the events that need to take place after a 30-day public review.

The working group agreed to write new ACTA OP&Ps that would clarify that:

1- Comments as well as appeals and oppositions may be submitted during the 30-day public review. Comments/Oppositions need to be

(a) submitted in writing to both the SDO and the ACTA, and,

(b) must include the name of the submitter, contact information, an explanation of the opposition/comment, and the requested remedy.

2- After the SDO considers the oppositions/comments, they need to notify the ACTA in writing of their action:

(a) no changes to the document,

(b) only editorial changes to the document, or

(c) substantive changes to the document.

3- In the latter case, if substantive changes are made to the SDO document that went out for public review, then the SDO should formally withdraw the document that was submitted to the ACTA to prevent publication.

Mr. Bishop agreed to circulate specific OP&P text (strawman) to address these proposed changes/clarifications.

Mr. Jeffries raised the issue concerning what the ACTA could in a situation where a technical criteria document contained provisions that could adversely affect ACTA's administrative functions. Could the ACTA submit opposition/comments to the SDO? What recourse would the ACTA have if the ACTA opposition/comments were not addressed by the SDO to the satisfaction of the ACTA? In general, there was consensus that the ACTA could submit opposition/comments if it was materially affected. Also, if the ACTA opposition/comments were not addressed by the SDO to the satisfaction of the ACTA, there was consensus that it would be reasonable under those circumstances for the ACTA to avail itself of the FCC's appeal/review process. However, the working group agreed to study this matter further and possibly include something related to this in the ACTA OP&P.

Mr. Jeffries agreed to discuss the matter of the ACTA submitting comments and appealing to the FCC in such cases with ATIS council.

The working group agreed to hold another conference call from 3:30pm to 4:30pm on July 9, 2003. Mr. Jeffries agreed to arrange a conference bridge.

Draft Proposed Text for New Section 10.4 of the ACTA OP&P

The following draft proposed ACTA OP&P text was e-mailed to the working group by Mr. Bishop on July 1, 2003, 4:43 PM EST for review and comments. The draft proposed text was intended to clarify procedures related to the submission of comments during the ACTA 30-day public notice period. In addition, Mr. Bishop made an attempt to address the possibility of the ACTA submitting oppositions/comments to the SDO and the ACTA appealing SDO decisions with respect to those oppositions/comments to the FCC.

Add a new section 10.4.

10.4 Procedures Related to Oppositions/Comments Submitted During Public Notice Period

Oppositions/comments filed in response to the ACTA 30-day public review period must be received by the ACTA within the 30-day public notice period to be considered. Oppositions/comments may be submitted to the ACTA by letter, facsimile, or e-mail. Oppositions/comments shall include the name of the submitter, the submitter's contact information, an explanation of the oppositions/comments, and the requested remedy.

10.4.1 Submission Oppositions/Comments to SDO

Oppositions/comments submitted to the ACTA during the ACTA 30-day public review period shall also be submitted to the authoring SDO during the 30-day review period and shall conform to the submission requirements of the authoring SDO.

The ACTA reserves the right to submit oppositions/comments to the authoring SDO when the document submitted for a 30-day public review impacts the ACTA's administrative functions.

10.4.2 Notice of SDO Meetings to Consider Oppositions/Comments

SDO meetings to consider oppositions/comments received during the ACTA 30-day public review period shall be open to any party that submitted oppositions/comments and any party that is materially affected by the proposed document even if such parties are not members of the authoring SDO. Advance notice of the SDO meeting to resolve oppositions/comments, and the proposed agenda for the meeting, shall be placed on the ACTA website in addition to the normal advance notice that the SDO would normally make for such meetings.

10.4.3 Procedures for Notifying ACTA of Opposition/Comment Status

If the authoring SDO decides (a) to make no changes to its document in response to oppositions/comments received during the ACTA 30-day public review period or (b) to make editorial non-substantive changes to its document in response to oppositions/comments, then the SDO shall notify the ACTA by letter, facsimile, or e-mail that (1) all oppositions/comments have been considered, (2) no changes or only editorial changes have been made to the document, and (3) the ACTA may proceed with publication. In such cases, the ACTA will work with the SDO to make sure that the ACTA publication requirements of 10.1.3 are met.

If the SDO decides to make substantive changes to the document as a result of oppositions/comments received during the ACTA 30-day public review period, then the procedures of the ANSI-accredited SDO with regard to a default letter ballot are applicable. If ANSI procedures regarding an additional ANSI review period are applicable, those procedures will also be followed. If the SDO makes substantive or technical changes to the document as a result of oppositions/comments received during the ACTA 30-day public review period, then the SDO shall notify the ACTA by letter, facsimile, or e-mail that they are withdrawing the document in order to preclude publication under FCC rules.

10.4.4 ACTA Appeal of SDO Opposition/Comment Decisions

If ACTA oppositions/comments submitted to the authoring SDO during the 30-day public review period are not resolved to the satisfaction of the ACTA, the ACTA reserves the right to file its oppositions/comments with the FCC for de novo review in accordance with 68.614(a). As an alternative, the ACTA reserves the right to file oppositions/comments directly with the FCC for de novo review within the 30-day public review period in accordance with 68.614(b).

(Note: "de novo" is Latin for "considering the matter anew" or considering the matter as if no decision had previously been rendered.)

July 9, 2003 - Second Conference Call.

Brian Krasney made arrangements for a conference call to discuss specific draft proposed changes to the ACTA OP&P. The call was held Wednesday, July 9, from 3:30 to 4:30 PM EST. Tim, Jimmy, and Trone participated.

In an e-mail message on July 1, Trone had provided proposed text for a new section 10.4 (See above) that would address "Procedures Related to Oppositions/Comments Submitted During Public Notice Period."

In an e-mail message on July 8, Tim had provided a WORD document that included Trone's proposed text along with Tim's proposed revisions. The working group reviewed Tim's document and in general approved Trone's proposed text with Tim's proposed revisions. The working group also concluded that some of Tim's proposed text for section 10.4 was useful but should be placed in sections 10.2.3 pertaining to technical criteria and 10.3.4 pertaining to informational documents.

The working group agreed that the new section 10.4 addressing procedures related to oppositions/comments submitted during the 30 day public notice period could not be considered apart from the rest of section 10. Trone agreed to extract section 10 from the ACTA OP&P, place the text into a WORD document, and then to add the proposed new text and move it into the appropriate sections.

At Tim's suggestion, the working group agreed to include two new sections (10.5 and 10.6) in the ACTA OP&P that would address *Appeals of Technical Criteria After Publication by the ACTA* and *Appeals of*

Technical Criteria That Are Former Commission Rules. The text for these sections will be based on the P68 Streamlining Report and Order at paragraphs 72 and 73.

Trone indicated that he would include text for new sections 10.5 and 10.6 in the document he had previously agreed to prepare. Trone indicated that he would e-mail the proposed new text for section 10 to the working group before the end of the week.

Third Conference Call of the Working Group - July 21.

Brian Krasney made arrangements for a conference call to discuss specific draft proposed changes to the ACTA OP&P. The call was held Monday July 21, from 3:30 to 4:30 PM EST. Tim, Jimmy, Cliff, and Trone participated.

In an e-mail message on July 11, Trone had provided the text of section 10 with the proposed changes including three new sections (10.4, 10.5, and 10.6). The revisions address procedures related to comments submitted during the public notice period as well as procedures related to appeals of existing technical criteria.

In an e-mail message on July 17, Tim had proposed several revisions to the draft text. The working group reviewed Tim's version of the document and, in general, approved the proposed text after making a few changes. Trone agreed to implement the proposed revisions and get the new draft 3 out to the working group in a couple of days.

With respect to ACTA filing comments on proposed technical criteria, it was agreed that it might be beneficial for the ACTA to develop a set of recommendations for SDOs to follow in the development of technical criteria documents. The working group agreed however that such recommendations were outside of the scope of this working group and should be developed by another working group.

Since the text is fairly stable at this point, the working group agreed to handle further discussion via e-mail rather than scheduling another conference call.

Tim agreed to forward draft 3 to ATIS legal council for review.

The working group agreed to give a presentation at the next meeting of the ACTA which is an executive meeting scheduled for August 7 2-4PM.

Attachment A

Overview of Documents published by the ACTA

Several types of documents are published by the ACTA:

- 1) Technical Criteria documents submitted by SDOs that must undergo the FCC-prescribed 30-day public review period¹ (e.g., T1.TRQ.6 and TIA-968-A). This type of document contains presumptively valid technical criteria for the protection of the public switched telephone network from harms caused by the connection of terminal equipment.²
- 2) Informational documents submitted by SDOs that are subject to the ACTA-prescribed 30-day public review period.³ This type of document contains no requirements.
- 3) TE requirements documents that the ACTA is authorized to develop⁴ but are not specifically required to undergo a 30-day public review period:
 - TE Labeling Requirements (TIA/EIA/TSB-168, June 2001) [?]
 - ACTA Customer Information Requirements, September 1, 2002.
- 4) Administrative documents developed by the ACTA that contain requirements in connection with the ACTA database or ACTA procedures but do not require a 30-day public review period:
 - Guidelines and Procedures for submittal of information for inclusion in the ACTA database of approved Telephone Terminal Equipment ("TTE"), Revision 2.4, December 2002.
 - Telephone Terminal Equipment (TTE) Submission Form Version 1.05, May 29, 2002.
 - ACTA Operating Principles and Procedures Version 1.5.
 - ACTA Contribution Template.
- 5) Informational/educational documents developed by the ACTA that do not require a 30-day public review period:
 - An Overview of the Responsible Party's Responsibility Following Part 68 Privatization.
 - An Overview of the ACTA.
 - ACTA Online Filing Tutorial.
 - ACTA Press Releases and Public Notices.

¹ 47 C.F.R. 68.608.

² 47 C.F.R. 68.7(b).

³ Administrative Council for Terminal Attachments (ACTA) Operating Principles and Procedures Version 1.5, clause 10.3.4.

⁴ See 47 C.F.R. 68.300(a) in connection with TE labeling requirements and 68.324(e)(1) in connection with customer instructions.

Attachment B

Proposed Changes to Section 10 of ACTA OP&P ver 1.5

(New text is underlined and deleted text is ~~struckthrough~~.)

10- PUBLICATION OF DOCUMENTS BY ACTA

Section 10.1 applies to all documents adopted and published by ACTA. Section 10.2 provides additional requirements for the submission, public notice period, and publication of technical criteria documents and Section 10.3 provides additional requirements for the submission, public notice period, and publication of informational documents.

Section 10.4 provides procedures for the submission and consideration of oppositions/comments during the 30 day public notice period for both technical criteria documents and informational documents. Section 10.5 covers appeals of technical criteria after publication by the ACTA and section 10.6 covers appeals of technical criteria that are former FCC rules.

For purposes of this Section, the term "publish" in the context of technical criteria documents, is limited to the acts of web site posting for public notification and subsequent posting as an ACTA-adopted technical criteria file for free-download from the ACTA web site.

10.1 Publication Policies and Requirements

10.1.1 Product and Technology Neutrality Policy

The ACTA does not recommend products or technologies. Nothing contained in any document adopted and published by ACTA shall violate this policy or be construed as conferring by implication or otherwise that the ACTA is recommending any specific product or technology to anyone.

10.1.2 Patent Policy

Nothing contained in any document adopted and published by ACTA should be construed as conferring by implication, estoppel or otherwise, any license or right under any patent, whether or not the use of any information in the ACTA-adopted document necessarily employs an invention of any existing or later issued patent.

10.1.3 Publication Requirements

Documents adopted and published by the ACTA shall have the ACTA-adopted logo and date affixed to the front cover and shall include the appropriate preface and disclaimer text provided in Appendix E prior to publication as an ACTA-adopted document.

10.2 Technical Criteria Documents

The ACTA shall adopt and publish technical criteria documents submitted by ANSI-accredited standards development organizations (SDOs). Each individual document in a family of documents that make up a terminal equipment technical criteria standard shall be submitted and processed as a technical criteria document.

10.2.1 FCC Requirements

The requirements for technical criteria submitted to the ACTA and the requirements for ~~standards development organizations~~ SDOs that develop and submit technical criteria to the ACTA have been established by the FCC in 47 C.F.R. § 68.604.

10.2.2 Submission Procedures

The ACTA submission procedures for technical criteria documents are provided in Appendix A. A sample cover letter for technical criteria document submission is provided in Appendix B.

10.2.3 Public Notice

~~The ACTA shall issue a public notice of its intent place technical criteria proposed for to adoption and publication proposed technical criteria and make the technical criteria available for public download and review from the by ACTA website (e.g., www.part68.com) for a 30 day comment period as on public notice in accordance with the requirements established by the FCC in 47 C.F.R. § 68.608. At the end of the prescribed public notice period, if there are no oppositions, the ACTA shall publish the technical criteria.~~

Parties aggrieved by the submitting SDOs decision to submit technical criteria to the ACTA for publication must appeal the decision through the SDO's ANSI-accredited appeal procedures.

During the 30 day public notice period, interested parties may appeal any aspect of the proposed technical criteria to the SDO or to the FCC. Parties appealing the proposed criteria must also provide notice of its appeal to the ACTA. Procedures for filing comments, whether appeals, oppositions, or general comments, are provided in section 10.4.

If no appeals or comments are filed within the allotted 30 days, the ACTA will adopt and publish the technical criteria and, as established by the FCC in 68.7(b), it will become the presumptively valid technical criteria for the protection of the telephone network from harms caused by the connection of terminal equipment. The ACTA will advise the SDO of the ACTA publication requirements in 10.1.3.

10.3 Informational Documents

The ACTA may develop, adopt, and publish informational documents and it may adopt and publish informational documents that are submitted to it by ANSI-accredited SDOs. The ACTA will advise the SDO of the ACTA publication requirements in 10.1.3.

The ACTA may discontinue the publication of any ACTA-adopted informational document at any time for any reason. If the formulating committee was an SDO, the ACTA shall notify the SDO of the discontinuance in writing so the SDO can remove the ACTA-adopted logo and ACTA disclaimers prior to re-publication.

10.3.1 Requirements for Informational Documents Submitted by ANSI-accredited SDOs

Informational documents submitted by ANSI-accredited SDOs to ACTA for adoption and publication shall meet all of the following criteria:

- (1) The document shall be related to terminal equipment as defined in 47 C.F.R. Part 68.
- (2) The purpose and intent of the informational document shall fall within the mission, scope, or responsibilities of the ACTA as defined in the ACTA Principles and Procedures.
- (3) The document shall not conflict with Part 68 or any ACTA-published technical criteria, with any technical criteria submitted to and pending for publication by ACTA, or with ACTA principles, procedures, or methods.
- (4) The document shall be educational or informational in nature, shall not contain any technical requirements, shall be carefully written in a manner such that nothing in the document can be reasonably construed as being an ACTA requirement, and the document

shall not contain the words "shall" or "must" unless quoting appropriately cited text containing those words.

10.3.2 Requirements for SDOs Submitting Informational Documents

The submitting SDO shall be ANSI-accredited and in good standing under the ANSI Standards Committee Method or the Organization Method and shall have been during

the development of the submitted document and the submitted document shall have been developed in accordance with applicable ANSI requirements.

SDOs submitting informational documents to the ACTA for adoption and publication are encouraged to conduct an ongoing review of such documents and notify ACTA when information in the document becomes incorrect, outdated, or in conflict with Part 68, technical criteria published by the ACTA, ACTA operating principles and procedures, or ACTA terminal equipment approval methods and procedures.

10.3.3 Informational Document Submission Procedures

The submission procedures for informational documents are provided in Appendix C. A sample cover letter for informational document submission is provided in Appendix D.

10.3.4 ACTA Review, Public Notice and Final Approval

The ACTA shall review the submitted informational document and vote whether or not to ~~send the document out for a public review~~ issue a 30 day public notice of its intent to adopt and publish the proposed informational document.

If the ACTA does not approve the informational document for a 30 day public review notice period, it shall notify the SDO of the reason in writing.

If a 30 day public notice period is approved, the ACTA shall issue a public notice on the ACTA website of its intent to adopt and publish the proposed ~~place the informational document proposed for adoption and shall make the document available for public download and review from the publication by ACTA website (e.g., www.part68.org) on public notice for a 30 days comment period.~~

Parties have 30 days to file comments, whether appeals, oppositions, or general comments, with the ACTA. The procedures for filing comments are provided in section 10.4.

After the 30-day public notice period, the ACTA shall consider all filed ~~comments and oppositions~~ and vote to adopt or reject the document. If the ACTA does not adopt the informational document after the public ~~review~~ notice period, it shall notify the SDO of the reason in writing. The SDO can choose to modify the informational document to address some or all of the concerns noted by the ACTA and resubmit it again for ACTA consideration.

10.4 Procedures Related to Comments Submitted During Public Notice Period

The authoring SDO and ACTA must receive comments, whether appeals, oppositions or general comments, within the 30-day public notice period in order for the comments to be considered prior to publication of the document by the ACTA.

Comments may be submitted to the ACTA by letter, facsimile, or e-mail.

Parties filing comments must include the name of the submitter, the submitter's contact information, a detail explanation of the comment(s), and the requested remedy. Information submitted to the ACTA in connection with filed comments will be made available to the general public.

10.4.1 Submission of Comments to the SDO

Comments, including appeals, oppositions, and general comments, submitted by interested parties to the SDO during the ACTA 30-day public notice period, must conform to the submission requirements of the authoring SDO.

The ACTA reserves the right to submit comments, including appeals, oppositions, or general comments, to the authoring SDO, prior to or during the 30-day public notice period, when the document in part or in whole impacts the ACTA's administrative functions. Alternatively, the ACTA reserves the right to file comments directly with the FCC for *de novo* review in accordance with 68.614(b).

If comments submitted by the ACTA to the authoring SDO during the 30-day public notice period are not resolved to the satisfaction of the ACTA, the ACTA reserves the right to delay publication of the document pending an FCC *de novo* review in accordance with 68.614(a).

10.4.2 Notice of SDO Meetings to Consider Comments

In order to encourage and expedite the resolution of comments, including appeals, oppositions, and general comments, by the authoring SDO, SDO meetings to consider comments filed during the ACTA 30-day public review period should be open to any party that submits comments and any party that is materially affected by the proposed document, even if such parties are not members of the authoring SDO or did not submit comments to the SDO. To encourage participation, the ACTA, when feasible, will make available on its website advance notice of the SDO meeting to resolve comments and the proposed agenda for the meeting.

10.4.3 Procedures for Notifying ACTA of Comment Resolution Status

If the authoring SDO decides (a) to make no changes to its document in response to comments filed during the ACTA 30-day public notice period or (b) to make editorial non-substantive changes to its document in response to comments, the SDO shall notify the ACTA by letter, facsimile, or e-mail that (1) all comments have been considered, (2) no changes or only editorial non-substantive changes have been made to the document, and (3) the ACTA may proceed with publication. In such cases, the ACTA will advise the SDO of the ACTA publication requirements in 10.1.3.

If the SDO decides to make technical or substantive changes to the document as a result of comments filed during the ACTA 30-day public notice period, the procedures of the ANSI-accredited SDO with regard to a default letter ballot may be applicable. ANSI procedures regarding an additional ANSI review period may also be applicable. If the SDO makes technical or substantive changes to the document as a result of comments filed during the ACTA 30-day public notice period, the SDO shall notify the ACTA by letter, facsimile, or e-mail that they are withdrawing the document in order to disqualify publication by the ACTA of the original document submitted to the ACTA.

The preceding paragraph does not prohibit the authoring SDO from resubmitting a revised document for a new 30 day ACTA public notice period after it has completed its default letter ballot and additional ANSI review period if applicable.

10.4.4 ACTA Appeal of SDO Comment Consideration Decisions

If comments, including appeals, oppositions, and general comments, submitted by the ACTA to the authoring SDO, prior to or during the 30-day public notice period, pertaining to the administrative functions of the ACTA are not resolved to the satisfaction of the ACTA, the ACTA reserves the right to delay publication of the document pending an FCC *de novo* review in accordance with 68.614(a).

10.5 Appeals of Technical Criteria After Publication by the ACTA

If the ACTA receives an appeal regarding published technical criteria, the ACTA shall refer the matter to the authoring SDO and impose a time limitation for resolving the objection. Should the authoring SDO fail to successfully resolve the appeal within the allotted timeframe, the party filing the objection must exhaust its appeal process through ANSI, if applicable. The scope of ANSI's review will be limited to the authoring SDO's ANSI procedures by which the criteria were developed. ANSI will not review the merits of the published technical criteria itself. Alternatively, the objecting party may file a request for *de novo* review by the FCC.

Technical criteria adopted and published after the 30-day public notice period will be deemed to be presumptively valid technical criteria for the protection of the telephone network from harms caused by the connection of terminal equipment and will remain so during appeal, unless they are subsequently invalidated by the authoring SDO, the ACTA, ANSI, or the FCC. (See Federal Communications Commission, *In the Matter of 2000 Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations*, , *Order on Reconsideration in CC Docket No. 99-216* , released: April 10, 2000.)

10.6 Appeals of Technical Criteria That Are Former FCC Rules.

If a party files an objection with the ACTA to original technical criteria (*i.e.* a former Part 68 rule), the ACTA shall coordinate with interested parties to have an ANSI-accredited SDO address the objections under ANSI procedures. (See Federal Communications Commission, *In the Matter of 2000 Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations*, CC Docket No. 99-216, *Report and Order*, released: December 21, 2000; paragraph 73.)

Figure1- Revised 30-Day Public Review Process

