

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580



Office of the Secretary

~~dated~~ ~~Sata~~ ~~in~~ ~~the~~ ~~FTC~~

File No. 051-0094

Dear Mr. Kurtzman:

Thank you for your comments on behalf of the Telecommunications Industry Association (“TIA”) regarding the proposed consent order accepted for public comment in the above-captioned matter. The Commission has reviewed TIA’s comments and has placed them on the public record of the proceeding.

The Commission is pleased to have received comments from organizations like TIA that are directly involved in standards development. Based on longstanding experience in dealing with the competing interests involved in the standards process, such commenters are in a position to discuss the issues presented by anticompetitive conduct in the standard-setting process. The Commission appreciates TIA’s statement that it does not question the “facts or the outcome” in this matter. Nonetheless, TIA wishes to obtain clarification of certain issues raised by the complaint and proposed Order in this matter.

The Commission is pleased to clarify that the Commission did not articulate a new set of rules or obligations to be adopted by all standards development organizations. Rather, as the Complaint, Commission Statement, and the Analysis to Aid Public Comment in this matter make clear, the Commission has reason to believe that the Respondent patent-holder involved in this case violated Section 5 of the FTC Act, based on the factual circumstances set forth in detail in those documents. It is important to note that this action is directed at the conduct of a patent holder, not a standards development organization. The remedy is designed to provide relief for this alleged violation.

The Commission’s proposed order has been crafted to restore the competition harmed by the specific conduct described in the Complaint. For example, the scope and terms of Respondent’s licensing obligations under the proposed order reflect the scope and terms of the

original licensing commitment made by Respondent's predecessor patent holder in 1994. As is common in Commission cases, the red ~~dent's~~ ~~se~~ ~~ce~~