

draft-halpern-gendispatch-antitrust

genarea @ IETF 118 Prague

Brief Background

Concerns raised by ISOC in 2020 about IETF legal exposure to antitrust issues

Extensive legal advice taken by IETF Administration LLC:

- Current policy set provides strong mitigation of antitrust risk
- No requirement for a new policy
- Would be helpful to have an informational document that a) summarises our position; and b) provides guidance for participants
- Ultimately, no IETF document can provide legal advice to participants

This is consistent with the 2013 BoF, noting that BoFs are not decision-making

Current Status

AD-sponsored **Informational** I-D - [draft-halpern-gendispatch-antitrust-06](#)

Background and summary of current policy set appear to have rough consensus

Multiple small / format changes recommended and to be applied (e.g. bullet 4.1)

Disagreement about “4.1 Topics to Avoid” and “4.2 Topics Requiring Caution”

Meta considerations are:

- How these points might be weaponised by IETF participants
- Clarity of these points - will they mean the same thing to all readers

Sticking Points and Proposed Solutions (1)

From “4.2 Topics Requiring Caution”

CURRENT: Using **detailed** market data to evaluate the relative implementation costs of **two technical alternatives** to decide whether one is significantly more feasible in the market and thus a better candidate for standardization.

- “Detailed” is not the point, it is whether or not the data is public
- Might be more than one alternative
- “Market data” is unclear - does it include technical performance data

PROPOSED: Using **unpublished** market data to evaluate the relative implementation costs of **alternative technical proposals** to decide ...

Sticking Points and Proposed Solutions (2)

From “4.2 Topics Requiring Caution”

CURRENT: *Entering into group negotiations of IPR terms.*

- Too open to interpretation, will be misused to suppress legitimate discussion
- Many examples of where group negotiations are appropriate
- Remove it altogether
- Move it (in revised form) to “4.1 Topic to Avoid”

PROPOSED: *Entering into **private or potentially discriminatory**, group negotiations of IPR terms.*