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| **Title:** | Proposed improvement to Recommendation ITU-T A.1, clause 3.1.6 |
| **Purpose:** | Proposal |
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| **Keywords:** | A.1; Incorporation of Text; |
| **Abstract:** | The meaning of A.1 clause 3.1.6 was discussed during the joint e-meeting of the RG-WM and RG-SC on 31 May 2018. A shortcoming of the existing text was identified, but no remedy to the problem was agreed. This contribution proposes how to clarify this text. |

# Background and Analysis

Recommendation ITU-T A.1 clause 3.1.6 has received a lot of attention and attracted many contributions in recent meetings.

The text in question is as follows:

**3.1.6** Material such as text, diagrams, etc., submitted as a contribution to the work of ITU‑T is presumed by ITU to have no restrictions in order to permit the normal distribution of this material for discussions within the appropriate groups and possible use, in whole or in part, in any resulting ITU‑T Recommendations that are published. By submitting a contribution to ITU‑T, authors acknowledge this condition of submission. In addition, authors may state any specific conditions on other uses of their contribution.

From the meeting report of the 31 May 2018 e-meeting of RG-WM and RG-SC, we find:

It was noted that the phrasing of ITU-T A.1 § 3.1.6 is most evidently applicable to text and diagrams created by the member submitting the contributions, and that the responsibilities of a member submitting text with copyright owned by others (e.g., to have obtained appropriate permission from the copyright owner to submit the text), or how other issues such as potentially essential IPR are addressed with regard to such text are not clearly identified.

There are some other problematic aspects to this text:

* The use of the word “author” is odd: contributions are submitted by “members” and not “authors”.
* The phrase “authors acknowledge this condition of submission” is an unclear phrase, but is generally understood to be consistent with normal practice of SDOs that by including text in a contribution, the member is implicitly granting the SDO permission to use the text (while not normally relinquishing their own copyright on the text).

Given the interpretation of this text as described in the e-meeting report, if the “author” of the text is the member submitting the contribution, by “acknowledging this condition of submission”, the member is granting the ITU permission to use the text and diagrams contained in their contribution.

But while ITU currently assumes that any text contained in a contribution is free of restrictions, the text is inadequate in the case where the text is not written by the member, but is owned by another organization. In this case, the “author” of the text and the “member” submitting the contribution are different, and the “author” is not involved at all in acknowledging any condition of the member submitting a contribution.

In assuming that the text is free of restrictions, ITU is assuming (but not checking) that any member submitting text that is not authored by the member was preceded by the member obtaining the necessary copyright authorization from the other organization with permission to submit the text free of restrictions.

Another aspect where allowing text owned by another organization to come into ITU through a contribution is IPR. In the case where the text and diagrams contained in the contributions are authored by the member, since the member is obliged to follow the ITU patent policy, it can be assumed that any IPR that becomes essential by use of the text or diagrams is owned by the member submitting the contribution, and will cause the member to submit a patent and licensing declaration in the case that their text and diagrams are accepted for including in an ITU-T Recommendation. But in the case where the text contained in the contribution is authored by another organization, there is the possibility that including that text and diagrams causes IPR to become essential to the ITU-T Recommendation that is owned, not by the member submitting the contribution, but by the members of the other organization. ITU is now assuming that the member who submits such text will take the responsibility to contact the owners of any IPR that has been declared against the text in the other organization and convince them to submit the necessary patent and licensing declarations to ITU.

One of the reasons incorporation of text from another organization was done in the past through a contribution is that the other organization was a non-legal partnership of multiple organizations, and the copyright on the text was jointly held by those multiple organizations. Any potentially essential IPR may be recorded in the databases of any of the member organizations in the partnership. The in-force version of A.5 provided no mechanism to make a normative reference to such text, and the in-force version of A.25 provided no mechanism to incorporate such text. There are proposals in another contribution about how to improve A.5 and A.25 to allow referencing of, or incorporation of text from partnership projects, and hence remove the need to find a way (such as A.1) to bypass A.5 or A.25. Assuming that these proposals are accepted, the text of A.1 clause 3.1.6 can be improved to clarify that the intent is to cover material contained in contributions that has been authored by the member submitting a contribution. Note that this does not preclude that a contribution can propose to make normative reference to, or to incorporate text from, another organization. But such a proposal can simply reference the text of the other organization that they propose to reference or to incorporate.

# Proposal

It is proposed to clarify the text of A.1 clause 3.1.6 as follows:

**3.1.6** ITU-T members should assure that material such as text, diagrams, etc., submitted as their contribution to the work of ITU‑T is free of restrictions in order to permit the normal distribution of this material for discussions within the appropriate groups and possible use, in whole or in part, in any resulting ITU‑T Recommendations that are published. In addition, ITU-T members may state any specific conditions on other uses of their contribution. If a contribution proposes to make normative reference to, or to incorporate text, diagrams, etc. from a document from another organization, the source document should be clearly identified, but not included in the contribution. If a proposal for making a reference or incorporation is accepted, the group may proceed according to A.5 or A.25 as appropriate.

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