Complaint to IAB regarding non-transparency

Daniel J. Bernstein, 2025-10-06

This is a complaint to the "Internet Architecture Board" (IAB) regarding the decisions identified below by the "Internet Engineering Steering Group" (IESG) within the "Internet Engineering Task Force" (IETF). Procedurally, I have two independent grounds for requesting IAB attention to this matter: (1) BCP 9's authorization to lodge appeals with IAB regarding IESG actions; (2) the requirement in antitrust law for standards-development organizations to provide an appeals process (https://www.govinfo.gov/content/pkg/USCODE-2024-title15/html/USCODE-2024-title15-chap69-sec4301.htm).

As context, I filed a complaint https://cr.yp.to/2025/20250812-non-hybrid.pdf with IESG regarding a declaration of consensus to adopt a particular draft, after the "Area Directors" (ADs) had mishandled my earlier complaint to them. IESG claimed that for copyright-related reasons my earlier complaint to the ADs wasn't "valid". IESG wrote that it "directs the appellant to file a valid complaint to the SEC ADs for consideration". I filed https://cr.yp.to/2025/20251006-non-hybrid.pdf in compliance with IESG's demands, and I am not asking IAB to review that matter at this time. However, beyond redirecting that matter back to the ADs, IESG also made some procedural decisions that I am hereby appealing to IAB.

Regarding the requirements that antitrust law places upon standards-development organizations, IETF LLC has recently claimed (https://web.archive.org/web/20250920100747/https://mailarchive.ietf.org/arch/msg/mod-discuss/RlVhmm_KsAXkfZHzIi6tlr8b6X4/) that the requirements are merely "an optional liability-related safe harbor". For comparison, a 2020 statement https://web.archive.org/web/20250617062615/https://www.justice.gov/archives/opa/speech/file/1281926/dl from Deputy Assistant Attorney General Alexander Okuliar in the Antitrust Division of the United States Department of Justice discusses exactly the same requirements and says "From an antitrust perspective, these requirements are central". IETF LLC also admitted in https://web.archive.org/web/20220514032045/https://mailarchive.ietf.org/arch/msg/antitrust-policy/f1iHM9p8N-U8p_pXen2ruDqjPPQ/ that "we received private feedback from other lawyers that, from the perspective of antitrust litigators, our current processes and procedures would not provide strong mitigation of antitrust risk and that could only be achieved with a detailed compliance policy". IETF LLC's claims of safety under antitrust law lack credibility.

1 Due process

It seems important as a preliminary matter to cover another requirement in antitrust law, namely the requirement for standards-development organizations to provide due process (https://www.govinfo.gov/content/pkg/USCODE-2024-title15/html/USCODE-2024-title15-chap69-sec4301.htm).

IETF LLC has issued a statement "IETF Administration LLC Statement on Competition Law Issues" claiming that IETF complies with antitrust law (https://web.archive.org/web/20250528213926/https://www.ietf.org/blog/ietf-llc-statement-competition-law-issues/). As part of this, IETF LLC claims that "IETF procedural rules, which include robust appeal options, are well-documented in public materials, and rigorously followed".

"Well-documented"? Really? I don't see a list of IETF policies. How can one claim that IETF procedural rules are "rigorously followed" if there isn't even a clear statement of which documents *are* the IETF procedural rules?

There are some "Administrative policies and procedures" listed in https://www.ietf.org/administration/policies-procedures/. But this doesn't include, e.g., RFC 2277, "IETF Policy on Character Sets and Languages", which is explicitly an IETF policy and places various requirements upon IETF (e.g., "All protocols MUST identify, for all character data, which charset is in use").

IETF policies aren't always explicitly labeled as policies. For example, RFC 2026, "The Internet Standards Process – Revision 3", has various requirements and in general *sounds* like a policy. Not having policies for

standards development would be a bizarre situation for a standards-development organization, certainly a violation of due process. But RFC 2026 doesn't use the word "policy" except in one section stating a patent policy. The document doesn't have any other text clearly indicating that the document is binding.

Some RFCs are designated "informational". RFC 2026 defines an "informational" RFC as one that "is published for the general information of the Internet community, and does not represent an Internet community consensus or recommendation". IETF Executive Director Jay Daley wrote "RFC 9680 is not a policy but an informational document" so "there is no concept of 'violations of RFC 9680' " (https://web.archive.org/web/20250114162437/https://mailarchive.ietf.org/arch/msg/tls/RFEgRAMG0FtMBkrpbDKSecqfqZQ/). But is it safe to categorically conclude that "informational" RFCs are not binding upon IETF? If some "informational" RFCs are actually IETF policies, how exactly does one tell which ones?

The lack of clarity here is prone to error, with some people ignoring rules while other people think those rules have to be followed. The lack of clarity is prone to abuse, with people in power making up excuses to selectively ignore rules. The lack of clarity is a due-process violation. The lack of clarity sabotages appeal processes. The lack of clarity is a giant waste of time. Fundamentally, it is not true that "IETF procedural rules, which include robust appeal options, are well-documented in public materials, and rigorously followed".

2 Extreme transparency

IETF LLC says, as part of the same "IETF Administration LLC Statement on Competition Law Issues", that "IETF activities are conducted with extreme transparency, in public forums".

Part of what I complained to IESG about was ADs discussing appeals in secret. Secret discussions of how to handle an IETF appeal are certainly IETF activities and are certainly not conducted with extreme transparency.

The first IESG decision that I am hereby appealing claims, in a nutshell, that it's okay for ADs to discuss appeals in secret.

IESG doesn't claim that those discussions aren't IETF activities. IESG also doesn't claim that secret discussions are conducted with extreme transparency. Instead IESG claims that this IETF LLC statement isn't binding upon IETF:

> The appellant appears to interpret that text as normative guidance which requires any parties discussing their request to do so only in public forums, and prohibiting private discussion.
>
> The IESG is clarifying that this interpretation is incorrect. This blog post is a narrative summary of existing RFCs speaking in generalities, and provides no new normative guidance for the IETF. If there is specific concern about normative communication practices, please cite an appropriate RFC.

Surely the question of what constitutes an IETF policy cannot be determined by ad-hoc distinctions ("blog post", "narrative summary", etc.—never mind the question of whether, e.g., the statement "IETF participants have impersonal discussions" from BCP 54 counts as a "narrative summary"). If the claim here is that nothing can be an IETF policy unless it is an RFC, where is this "well-documented"?

Furthermore, whether or not the "IETF Administration LLC Statement on Competition Law Issues" is binding upon IETF, it's *false advertising* for IETF LLC to claim that "IETF activities are conducted with extreme transparency, in public forums" when the actual situation is that IESG members and other IETF LLC agents are habitually concealing portions of their IETF activities.

3 Record-keeping requirements

There is another reason that ADs are not allowed to discuss appeals in secret. RFC 2026, part of IETF BCP 9, includes the following record-keeping requirements:

> Each of the organizations involved in the development and approval of Internet Standards shall publicly announce, and shall maintain a publicly accessible record of, every activity in which it engages, to the extent that the activity represents the prosecution of any part of the Internet Standards Process. For purposes of this section, the organizations involved in the development and approval of Internet Standards includes the IETF, the IESG, the IAB, all IETF Working Groups, and the Internet Society Board of Trustees. ...
>
> The formal record of an organization's standards-related activity shall include at least the following:
>
> - the charter of the organization (or a defining document equivalent to a charter);
> - complete and accurate minutes of meetings;
> - the archives of Working Group electronic mail mailing lists; and
> - all written contributions from participants that pertain to the organization's standards-related activity.

ADs concealing their discussions of appeals are violating three parts of this: (1) the requirement for IETF and specifically IESG to maintain a "publicly accessible record" of "every activity in which it engages, to the extent that the activity represents the prosecution of any part of the Internet Standards Process"; (2) the specific requirement for this record to include "complete" minutes of meetings; and (3) the specific requirement for this record to include "all written contributions from participants that pertain to the organization's standards-related activity".

Note that AD discussions in person, over Zoom, etc. are "meetings", and AD email messages are "written contributions".

IESG has three answers to this, none of which stand up to examination.

First, IESG says that its "formal meetings" (including "official decisions") are recorded with published minutes. But RFC 2026 doesn't say "formal meetings"; it says "meetings". RFC 2026 makes no exceptions for informal meetings (or for IESG's "executive sessions"). Also, merely covering "decisions" means that the minutes aren't complete. (The word "minutes" means "the official record of the proceedings of a meeting"; see https://www.merriam-webster.com/dictionary/minute.) Furthermore, RFC 2026 includes "all written contributions". Saying that IESG makes *some* information publicly available is dodging the problem at hand, namely IESG hiding *other* information.

Second, IESG refers to text in RFC 3710 saying that records of IESG discussions "are not required to be made public". But RFC 3710 is merely an "informational" RFC, so how can it make exceptions to a standardization policy, RFC 2026? If the answer is supposed to be that RFC 3710 is actually a policy, then why is that answer different from the IETF LLC Executive Director writing that "RFC 9680 is not a policy but an informational document"? See Section 1.

Third, IESG refers to text in RFC 2026 saying that appeal bodies "have the discretion to define the specific procedures they will follow in the process of making their decision". But this general statement about appeal procedures doesn't override RFC 2026's specific record-keeping requirements, nor do IESG members have authority to declare that they will violate those requirements.

IESG concludes by claiming that "RFC 2026 prohibits appeals from being ignored and the outcomes of appeals from being kept secret; it does not require that every conversation be recorded or that every working-copy of an appeal response be made public" and that "the IESG (both jointly and individually) may conduct private

discussions when working toward decisions, provided that the decisions themselves and their rationale are presented publicly". But this is out of whack with the clear text of RFC 2026's record-keeping requirements. IESG's conclusion is instead founded upon flawed excuses for ignoring those requirements.

For comparison, RFC 2418, part of BCP 25, says that "Working groups are typically created to address a specific problem"; allows "a sub-group of a working group to develop a proposal to solve a particular problem"; and explicitly authorizes such sub-groups to have "closed membership and private meetings", while constraining this by saying that the output of the sub-group "is always subject to approval, rejection or modification by the WG as a whole". This text illustrates—if we assume that RFC 2418, which is not labeled as "informational", counts as a policy—that IETF can have policies making exceptions to the RFC 2026 record-keeping requirements. But this exception is not applicable here: IESG is not a "working group" under RFC 2418; IESG was not "created to address a specific problem" under RFC 2418; IESG's handling of appeals is not developing "a proposal to solve a particular problem" under RFC 2418.

4 Who handles complaints

My original complaint was regarding an action within the "security area" of IETF, so I addressed the complaint to both of the security ADs, as per the following paragraph from RFC 2026: "If the disagreement cannot be resolved in this way, any of the parties involved may bring it to the attention of the Area Director(s) for the area in which the Working Group is chartered. The Area Director(s) shall attempt to resolve the dispute."

When a disagreement is brought to the attention of the two security ADs, this paragraph requires the two security ADs to "attempt to resolve the dispute". It appears that one of the security ADs, instead of attempting to resolve the dispute, dumped this matter entirely on the other AD.

IESG agrees that "both ADs Wouters and Cooley are ultimately responsible for managing the resolution of his complaint". However, IESG claims that it's acceptable for the ADs to "delegate this responsibility to one of the Area Directors". This claim is the second IESG decision that I am hereby appealing.

IESG doesn't claim that, when there are multiple ADs for the area, having only one of multiple ADs attempt to resolve the dispute complies with the requirement "The Area Director(s) shall attempt to resolve the dispute". Instead IESG claims that this requirement is overridden by three other pieces of text. Again IESG's claims don't stand up to examination.

First, IESG points to text in RFC 3710 saying that "most" functions are "delegated by the IESG" to a single AD. However, this doesn't say that *appeals* are delegated to a single AD, nor is there anything in RFC 2026 giving IESG any authority to make such a delegation. Furthermore, RFC 3710 is merely "informational", so it can't override an RFC 2026 requirement; see Section 3.

Second, IESG points to text in RFC 3710 saying that various decisions "can be appealed to the AD". But, even if this means that an appeal is allowed to a single AD out of multiple ADs, it doesn't change the fact that parties can bring matters "to the attention of the Area Director(s) for the area in which the Working Group is chartered", and it doesn't change the RFC 2026 requirement that then "The Area Director(s) shall attempt to resolve the dispute". Furthermore, again, RFC 3710 is merely "informational".

Third, IESG again refers to text in RFC 2026 saying "At all stages of the appeals process, the individuals or bodies responsible for making the decisions have the discretion to define the specific procedures they will follow in the process of making their decision". But this doesn't override the requirement that "The Area Director(s) shall attempt to resolve the dispute". Furthermore, when RFC 2026 says "may bring it to the attention of the Area Director(s)", it doesn't say "appeal"—it reserves the word "appeal" for followup stages—so the text about "stages of the appeals process" isn't even relevant here.

To be clear, I don't think that an AD violating "The Area Director(s) shall attempt to resolve the dispute" is as important as an AD violating transparency requirements. However, the other AD mishandled my complaint in various ways that would have been avoided if multiple people had taken responsibility for the results.