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Privattivi essenzjali standard

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Proposta għal regolament**Premessa 30***Test propost mill-Kummissjoni**Emenda*

(30) Huwa mehtieġ li jiġi żgurat li r-registrazzjoni u l-obbligi li jirriżultaw previsti f'dan ir-Regolament ma jiġux evitati billi jitneħħa SEP mir-registru. Meta evalwatur isib li SEP iddikjarat ma huwiex essenzjali, id-detentur tal-SEP biss jista' jitlob it-tneħħija tiegħu mir-registru u biss wara li jkun tlesta l-proċess ta' kampjunar annwali u jkun ġie stabbilit u ppubblikat il-proporzjon ta' SEPs veri mill-kampjun.

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Or. en

Ġustifikazzjoni

Thassir għall-konsistenza mat-thassir tad-dispożizzjonijiet relatati mal-verifiki tal-essenzjalità.

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Proposta ghal regolament**Premessa 46***Test propost mill-Kummissjoni**Emenda*

(46) L-SMEs jistghu jkunu involuti fil-liċenzjar tal-SEPs kemm bhala detenturi tal-SEP kif ukoll bhala implimentaturi. Filwaqt li bhalissa hemm ftit SMEs li huma detenturi tal-SEPs, l-effiċjenzi prodotti b'dan ir-Regolament x'aktarx jiffacilitaw il-liċenzjar tal-SEPs tagħhom. Huma mehtieġa kundizzjonijiet addizzjonali biex jittaffa l-piż tal-kostijiet fuq dawn l-SMEs bhal tariffi amministrattivi mnaqqa u tariffi potenzjalment imnaqqa għall-verifiki tal-essenzjalità u l-konċiljazzjoni minbarra l-appoġġ u t-tahriġ bla hlas. L-SEPs tal-intrapriżi mikro u żghar jenhtieġ li ma jkunux is-suġġett ta' kampjunar għall-kontroll tal-essenzjalità, iżda jenhtieġ li jkunu jistghu jipponu SEPs għall-verifiki tal-essenzjalità jekk ikunu jixtiequ. L-implimentaturi tal-SMEs jenhtieġ li jibbenefikaw bl-istess mod minn tariffi ta' aċċess imnaqqa u appoġġ u tahriġ bla hlas. Fl-aħhar nett, id-detenturi tal-SEPs jenhtieġ li jiġu mhegġa jinċentivaw il-liċenzjar mill-SMEs permezz ta' skontijiet jew eżenzjonijiet ta'

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volum baxx mir-royalties FRAND.

Or. en

Ġustifikazzjoni

Thassir għall-konsistenza mat-thassir tad-dispożizzjonijiet relatati mal-verifiki tal-essenzjalità.

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Proposta għal regolament

Artikolu 1 – paragrafu 1a (ġdid)

Test propost mill-Kummissjoni

Emenda

1 a. Ir-Regolament għandu japplika biss għal privattivi li jidhlu fis-seħh wara d-dhul fis-seħh ta' dan ir-Regolament.

Or. en

Ġustifikazzjoni

Sabiex tiġi żgurata ċ-ċertezza legali, ir-Regolament propost għandu japplika biss għal standards futuri.

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Proposta għal regolament**Artikolu 1 – paragrafu 2 – parti introduttorja***Test propost mill-Kummissjoni**Emenda*

2. Dan ir-Regolament għandu japplika għall-privattivi li huma essenzjali għal standard li jkun gie ppubblikat minn organizzazzjoni għall-iżvilupp tal-istandards, li magħha d-detentur tal-SEPs ikun impenja ruħu li jilličenzja l-SEPs tiegħu skont termini u kundizzjonijiet ġusti, raġonevoli u mhux diskriminatorji (FRAND), u li ma jkunx soġġett għal politika dwar il-proprjetà intellettwali hielsa mir-royalties,

2. Dan ir-Regolament għandu japplika għall-privattivi li huma essenzjali għal standard li jkun gie ppubblikat minn organizzazzjoni għall-iżvilupp tal-istandards, li magħha d-detentur tal-SEPs ikun impenja ruħu li jilličenzja l-SEPs tiegħu skont termini u kundizzjonijiet ġusti, raġonevoli u mhux diskriminatorji (FRAND), u li ma jkunx soġġett għal politika dwar il-proprjetà intellettwali hielsa mir-royalties, **jekk il-Kummissjoni tkun iddeterminat fir-rigward tal-istandard ikkonċernat, permezz ta' att delegat skont l-Artikolu 67, li l-funzjonament tas-suq intern ikun distort hafna.**

Or. en

Ġustifikazzjoni

The proposed Regulation seeks to make the existing Standard Essential Patents (SEP) market in Europe more transparent, more predictable and more efficient. However, it does not introduce evidence that this problem exists. That is concerning, considering that SEPs are

becoming increasingly important, for the general ICT sector and other sectors, such as car manufacturers and the Internet of Things. The 'Empirical Assessment'[1] that the Commission asked for showed inconclusive evidence. This is contrary to the Better Regulation principles, which require that any intervention in the markets is evidence-based. Furthermore, important stakeholders on SEP-licensing for this report, including the EPO and UPC, have not been consulted. Finally, the SEPs market is a global market, in which the EU is currently playing an important role. It is important to ensure that the proposed Regulation will not impact the market contrary of what it tries to achieve, by for example incentivizing others countries outside of the EU to continue to infringe existing patents or worse. Until proven otherwise, the current global SEP system seems to work well, giving legal certainty to both SEP holders and implementers. The proposed regulation should therefore only apply to SEPs where the Commission has determined that a genuine internal market problem has manifested itself, and presented this in a delegated act to both co-legislators.[1] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, Baron, J., Essentiality checks for potential SEPs – Framework for assessing the impact of different policy options, Publications Office of the European Union, 2023, <https://data.europa.eu/doi/10.2873/002897>

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Proposta għal regolament

Artikolu 1 – paragrafu 2 – punt a

Test propost mill-Kummissjoni

Emenda

(a) wara d-dhul fis-seħħ ta' dan ir-Regolament, bl-eċċezzjonijiet previsti fil-paragrafu 3;

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Proposta għal regolament

Artikolu 1 – paragrafu 2 – punt b

Test propost mill-Kummissjoni

Emenda

(b) qabel id-dhul fis-sehh ta' dan ir-Regolament, f'konformità mal-Artikolu 66.

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Proposta għal regolament**Artikolu 1 – paragrafu 3***Test propost mill-Kummissjoni**Emenda*

3. L-Artikoli 17 u 18 u l-Artikolu 34(1) ma għandhomx japplikaw għall-SEPs sal-punt li jiġu implimentati għall-każijiet ta' użu identifikati mill-Kummissjoni f'konformità mal-paragrafu 4.

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Proposta għal regolament**Artikolu 1 – paragrafu 4***Test propost mill-Kummissjoni**Emenda*

4. Fejn ikun hemm biżżejjed evidenza li, fir-rigward ta' każijiet ta' użu identifikati ta' ċerti standards jew partijiet minnhom, in-negożjati tal-liċenzjar tal-SEPs skont termini FRAND ma jwasslux għal diffikultajiet jew ineffiċjenzi sinifikanti li jaffettwaw il-funzjonament tas-suq intern, il-Kummissjoni għandha, wara proċess ta' konsultazzjoni xieraq, u permezz ta' att delegat skont l-Artikolu 67, tistabbilixxi lista ta' każijiet ta' użu, standards jew partijiet minnhom bħal dawn, ***għall-finijiet tal-paragrafu 3.***

4. Fejn ikun hemm biżżejjed evidenza li, fir-rigward ta' każijiet ta' użu identifikati ta' ċerti standards jew partijiet minnhom, in-negożjati tal-liċenzjar tal-SEPs skont termini FRAND ma jwasslux għal diffikultajiet jew ineffiċjenzi sinifikanti li jaffettwaw il-funzjonament tas-suq intern, il-Kummissjoni għandha, ***sa [ĠU: jekk joghġbok dahhal id-data: 24 xahar mid-data tad-dhul fis-sehħ ta' dan ir-Regolament], u*** wara proċess ta' konsultazzjoni xieraq, u permezz ta' att delegat skont l-Artikolu 67, tistabbilixxi lista ta' każijiet ta' użu, standards jew partijiet minnhom bħal dawn.

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Proposta għal regolament

Artikolu 3 – paragrafu 2 – punt f

Test propost mill-Kummissjoni

Emenda

(f) jamministra proċess għad-determinazzjoni tar-royalties aggregati;

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Proposta għal regolament**Artikolu 4 – paragrafu 4 – punt b***Test propost mill-Kummissjoni**Emenda*

(b) *l-ghoti jew it-trasferiment ta' liċenzja permezz ta' gruppi ta' privattivi, fejn applikabbli skont l-Artikolu 9;*

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Or. en

Ġustifikazzjoni

Patent pools should be stimulated, because they can address many of the SEP licensing challenges by offering better scrutiny on essentiality, more clarity on aggregate licensing fees and one-stop-shop solutions. This was confirmed by the European Commission Communication of 29 November 2017 “Setting out the EU approach to Standard Essential Patents”, COM(2017) 712 final, which stated that “The creation of patent pools or other licensing platforms, within the scope of EU competition law, should be encouraged. ” Article 9 already requires patent pools to publish a list of licensees by sector. This provision would require an extra administrative burden. It also confirms the amendments related to art 15-18.