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Standard Essential Patents and the Quest for Faster Diffusion of Technology

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Brussels, Belgium, 4th October 2017 - In this paper, we will discuss ideas and concepts for what could be done to maintain a balanced and trusted system that supports technological innovation and at the same time conforms to economic efficiency.

Standard-essential patents (SEPs) have been critical to the ICT revolution. SEPs have allowed for the fast rates of innovation diffusion that the world has witnessed in the past 25 years. Yet the SEP system is under pressure. It suffers from a smoldering crisis of confidence as costly legal disputes across several international jurisdictions have caused unpredictable frictions in the markets for standardized technologies. Regulators in several parts of the world are now considering actions that seek to overcome obscurities in the SEP system. Asymmetric information is at the very heart of current problems in the market for SEPs, and all too often resembles a market dominated by a 'confusopoly' with little transparency about products, quality and prices.

There are reasons to be optimistic about the future of SEPs. The world economy is at the doorstep of technological developments that would benefit from an SEP system trusted by innovators in up- and downstream markets. Despite growing frictions between various participants in SEP contracts, the reality is that all sides to the equation actually still stand to benefit from an SEP system that delivers on its potential. For the SEP system to become more credible there is some renovation work required. In a way, that work can be described as finishing the design of the SEP market and put more attention on market practices and developments around the actual patent and standard.

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