

NEWS – ECIPE PRESS RELEASE – NEW POLICY BRIEF

The Proposed EU Regulation for Standard Essential Patents: Chronicle of a Death Foretold

By **Fredrik Erixon**, **Oscar Guinea** and **Dyuti Pandya**, *Director, Senior Economist, and Analyst, respectively, at ECIPE*

Brussels, 11 September 2025 - A new [Policy Brief](#) from the ECIPE reassesses the potential consequences had the European Commission's proposed regulation on Standard Essential Patents (SEPs) been implemented. The study points out that the proposal would have significantly undermined innovation in Europe's telecom network sector – a large, diffused and economically critical sector that generates high levels of value added. Moreover, the SEP proposal would have created legal uncertainty and weakened Europe's leadership in developing key technological standards. In short, it was an idea that undermined Europe's economic power.

While Standard Essential Patents are an obscure issue for many, they sit right at the heart of the digital revolution and are a foundation for future technological change. The Policy Brief argues that the proposal reflected a broader misunderstanding of the pace of technological innovation and the effectiveness of existing, self-correcting mechanisms within the current SEP licensing framework.

One of the most contentious elements in the proposal was the introduction of authorised maximum aggregate royalty rates.

Commenting on this, Oscar Guinea, one of the study's authors, said:

“Attempting to administratively fix SEP prices would have caused market distortions. As with any form of price control, setting rates below market value would have resulted in scarcity, reduced incentives to innovate, misallocation of resources, regulatory arbitrage, and legal uncertainty.”

He further noted:

“In the context of SEPs, this would have led to fewer patents being declared essential, forcing implementers to negotiate higher prices for non-SEPs. Ironically, this would have resulted in less transparency, increased discrimination, and reduced fairness in the very market the regulation aimed to improve.”

The study concludes that the European Commission's decision to withdraw the proposal was the correct one – and that it should not try to put it back on the agenda. It argues that the regulation, rather than improving the existing system, would have introduced new problems that risked slowing technological progress and disrupting the market-driven process of standardisation.

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Contact the corresponding author: Oscar Guinea, oscar.guinea@ecipe.org

Media inquiries: info@ecipe.org or +32 499 053 110