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**Report on Competition Issues in Standardisation, Certification,
and Testing of Security Products**
UNIVERSITY OF WARWICK

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**Report on Competition Issues in Standardisation, Certification,
and Testing of Security Products**

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Summary

This report presents expert views on the kinds of competition issues that arise currently in relation to the standardisation and certification of security products within the EU, and how a harmonised approach may affect these. HECTOS was designed against the background of a *lack* of standardisation in the security products area. Standardisation is supposed to promote greater understanding of product performance among potential competitors and customers alike. It is also supposed to facilitate fair procurement processes, in which different customer requirements are able to be met competitively by different market actors. In practice, however, standardisation can involve the classification for security purposes of certain test methods (see HECTOS D3.3 [2] and D8.2 [3]). Procurement can also be subject (sometimes perfectly reasonably) to secrecy in the specification of customer requirements, which in practice disadvantages companies without the appropriate clearances. Furthermore, procurement in the security area can also be subject to political pressures on governments to award contracts to big employers in their jurisdictions. Again, the development of standards by market actors is easier for big, well-resourced, well-established companies than for new market entrants.

The report draws on the results of interviews with competition lawyers and relevant stakeholders. Key themes that arose during the discussions included: the ambiguous role of both of standards and standards-bodies and of testing laboratories in facilitating competition; the tension between, on the one hand, conceded national prerogatives with respect to the procurement, development and sale of products, and on the other, the need for greater competitiveness across the EU; and the challenges to entry into the market for smaller players in light of the power of larger players to influence standard-setting and to inclusion in procurement processes. Harmonisation encourages the creation of common standards and, though standards are desirable, they must be established in an open way and then made generally available, without participation being limited to big or well-resourced players. It should be possible to devise rules of the road in terms of transparency in the process and fairness and the availability of the standards. The role of standard-setting bodies in respecting and upholding these rules is crucial.

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1 Introduction

1.1 Background

HECTOS is a European project focusing on harmonisation of evaluation, certification and testing of physical security products. Physical security equipment and systems are very diverse in design, operation, application area and performance, and similar security products are difficult to compare in terms of performance, accuracy, usage, trust, and validation of functionality. Currently, there are very few test, evaluation and certification procedures in Europe that are mutually recognised by different Member States. This leads to fragmentation of the market, as identified in the recent EC Communication on Security Industrial Policy [1], with negative impacts on both suppliers and users.

The HECTOS project focuses on the evaluation and certification schemes for physical security products, and studies how existing schemes used in other areas could be applied, adapted or developed for products used for physical security of people, property and infrastructure. Developed evaluation and certification schemes have been investigated by applying them to two different product groups as case studies: (i) biometrics and (ii) detection of weapons and explosives.

The HECTOS project learns from and work with other initiatives working in broader product areas such as security systems and cyber security, as well as with other standardisation and certification initiatives, including the EU research project CRISP.

HECTOS will result in elements for a roadmap for the development of harmonised European certification systems and schemes for physical security products, and initiate standardisation activities.

The HECTOS project is prompted in part by a concern that current standardisation and certification practices around security product sector within the EU lead to fragmentation of the market, raising costs of entry and business to manufacturers, costs which disadvantage smaller players, hinder competition, and are inevitably passed on to the consumer. This report describes some of the specific challenges, which arise in particular in virtue of the strong national legislation tradition in security standardisation (i.e. the fact that security policy is still a matter for national, rather than EU government), discusses their relation to competition law, and considers how harmonisation might affect these.

1.2 Approach

Early on in the project, University of Warwick, represented by Prof. Tom Sorell, together with other HECTOS partners and management explored the kind of legal issues this study should focus on. Discussions were productive and identified the challenges to harmonisation of certification as an area of particular concern.

A stakeholder event was initially planned with a focus on competition law issues related to harmonised standardisation and certification of physical security products. A list of possible

topics for discussion was drawn up and circulated to the HECTOS consortium for feedback. A list of legal firms and specific lawyers with expertise in this field was compiled. An initial description of the event was presented at the HECTOS stakeholders meeting in Brussels in April 2016. Interest was expressed by a number of stakeholders.

Further input from the consortium on the list of issues and participants was sought and discussed at several project meetings and it was decided that the advice of an academic lawyer would be sought to determine what kinds of legal experts might be invited and also to invite feedback on the list of issues, and a meeting was held in February 2016 with a competition law academic at Warwick. Feedback was sought from the lawyer about the issues identified; format of experts' meeting; and potential participants.

A new, refined plan was drafted and presented to the consortium in September 2016. This was further revised on the basis of a follow-up skype meeting with selected project partners. An invitation and description of the event was drafted. The first wave of invitations to speakers were sent out in early December 2016 and further invitations were sent out in January 2017. Invitations to speak at the event were sent to lawyers from over 30 firms, and participation from 3 legal experts in antitrust was secured. It was very difficult to identify and secure speakers with relevant expertise who were willing to speak at the event. It is not an area that tends to be litigated. The relevant legal regulations are clear, but these have not been tested in the context of the security product market. Though stakeholders were interested to participate as audience, speakers with expertise to share were very hard to find.

Invitations to attend the event were sent to HECTOS partners; HECTOS stakeholders; EC officials; ECORYS; European Privacy Seal; academic lawyers at the universities of Leuven, London School of Economics, Vrije Universiteit Brussels, Universite Libre de Bruxelles and Warwick. A description and schedule for the meeting was drawn up and is annexed below in Annex 3.

Unfortunately, two of the legal speakers pulled out less than a week from the date of the meeting. One could not secure authorisation from her firm to participate, despite having expected it to be unproblematic. The other could not speak to issues relevant to application of technologies by law enforcement. It was decided to cancel the meeting. It was decided in consultation with the project coordinator not to postpone the meeting as it was felt that the difficulties faced securing participation from lawyers would not be eased by adding more time to the planning. The fact that the workshop had to be cancelled meant that a great deal of time and effort had been spent on an event that did not take place.

To replace the workshop, University of Warwick proceeded to identify participants - lawyers and other stakeholders - who would agree to be interviewed individually, thus avoiding some of the problems of legal practitioners felt public presentations of competition issues might put in the way of their representation of commercial clients. A presentation of the results of the interviews were the nearest the project could come within the time available to a report of the originally planned competition law workshop.

This report presents those results including expert views on the kinds of competition issues that do or might arise in standardisation and certification of security products within the EU, and how harmonisation may affect these. It is based on a series of semi-structured interviews with

2 competition lawyers, 1 manufacturer of security products, 1 representative from a national standards body, and 1 explosives expert, chosen both because they are known to the authors and because explosives detection is one of the case-study areas of the project. Participants were based in the UK, Ireland, Belgium, the Netherlands, and Germany.

It would have been useful to speak to smaller manufacturers, who may have had experience of finding it difficult to access standards or participate in standard-setting activities, but some input from them on these issues was already achieved at a previous HECTOS stakeholder meeting, and their concerns were fed to the participants. A more systematic investigation of these issues would have consulted regulators, civil servants engaged in procurement activities, and certification bodies amongst others. However, the possibility to undertake a large, empirically robust study was beyond the scope of this project. Drafts of it have been reviewed by the participants, the HECTOS consortium, as well as by external reviewer from a national standards body outside HECTOS.

Ethical approval for the research was sought and granted by the University of Warwick's Humanities and Social Sciences Research Ethics Committee prior to any contact being made with potential participants. Review of the applications was also provided by HECTOS's Ethics Advisory Board (EAB). Participants were recruited via a mix of existing contacts and new approaches made by the authors. Along with the information sheet and consent forms (see Annex 1 and 2) they received, participants were sent a list of issues for discussion, which had been formulated by the authors with input from the HECTOS consortium and the previous HECTOS project officer at the EC. This list, replicated below, aimed to prompt reflection on, and gain insight into, areas of standardisation activity that may have a negative effect on competition in the security product sector. However, the issues are also likely relevant beyond the security sector, for example in large-scale infrastructure projects:

- Cases in which hard-to-comply-with standards or hard-to access certification are used as a barrier to imports and as a hidden support for domestic companies
- Ways in which countries or companies might be able to continue to game the system even in the light of greater efforts at harmonisation (for example, by writing specifications into procurement in ways that favour domestic companies)
- Potential tensions between standardisation and, for example, innovation if a company with a dominant position in the market and an established technology developed a standard geared to that technology
- The influence of procurement processes and regulations in these areas

Discussions took place via telephone or teleconferencing and lasted typically 60-80 minutes each. We encouraged participants to provide us with illustrative examples, references, and further reading to gain deeper insight into relevant issues. It is important to note that the opinions expressed in the interviews are just that-opinions from a small, sample of experts. They are therefore insights, not an objective reflection of the state of affairs in this sector.

2 The EU regulatory framework

There are two key EU documents regulating standardisation and procurement. The first is the European Commission's 'Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements' (hereafter 'Guidelines'). The second, relating to procurement is the 2009/81 'Directive on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security' (hereafter 'Directive 2009/81').

The Guidelines recognise that standards and standard-setting practices can be both enablers of markets and drivers of competition, as well as barriers to competition in practice. Indeed, the Guidelines stipulate that establishing whether the law has been breached with respect to competition legislation involves a process of balancing the anticompetitive effects of standard-setting and procurement practices against the competitive benefits. Even when the anticompetitive effects of standard-setting or procurement practices are not obvious or serious enough to reach the threshold that would trigger litigation, they may still undermine or reduce the competitiveness of the market in ways that should be addressed by regulators. As we will see, our discussions with participants helped shed some light on how these typically un-litigated anticompetitive practices occur in the security product sector.

According to the Guidelines, standardisation agreements may produce their effects on four possible markets:

- a) the product or service market or markets to which the standard or standards relates
- b) the relevant technology market, where the standard-setting involves the selection of technology and where the rights to intellectual property are marketed separately from the products to which they relate
- c) the market for standard-setting, if different standard-setting bodies or agreements exist
- d) a distinct market for testing and certification.

From the perspective of HECTOS effects on (b) - the relevant technology markets - are of particular relevance, especially where these are markets requiring high levels of investment, and trust from governments in relation to security and confidentiality. In particular, if parts of standards are classified (see [2] and [3] on the classification of testing requirements), the ability of companies to design products meeting them is at least hampered. In order to be in accordance with legal requirements, access to the relevant market (for example, via access to patented technologies included in the standard) must be provided by on terms that are 'fair, reasonable and nondiscriminatory' ("FRAND commitment").

3 EU case law

There is scant case-law in the field of standardisation and competition law, and what does exist is most relevant in practice to the role of industrial consortia in standard-setting, rather than national standards bodies. Where national standards bodies have transparent criteria and methods for ensuring inclusivity, non-dominance and the achievement of meaningful consensus, this can be absent from groups of companies that come together on an independent basis to develop standards. The relative lack of case-law in this area does not necessarily mean

that there is no illegal behaviour. Our participants suggested that manufacturers who believe that access to the relevant market fails to meet the terms of a FRAND commitment may be discouraged from seeking legal redress for one or more of the following five reasons:

- a) Costs: it is very expensive to mount such a legal action, and those unfairly denied access to a market are more likely to be small players with limited financial resources compared to their adversaries.
- b) Non-financial costs: legal action may be costly to the company in other terms, namely the potential for the court to require it to reveal commercial secrets in a public arena.
- c) The national security prerogative: this enables countries to favour domestic manufacturers without becoming subject to litigation.
- d) Difficulty in calculating royalties: if it is difficult to establish what royalties should be in the first place, then it will be difficult for smaller parties to challenge them once they are set.
- e) The industry/governments/a combination of both finds ways to persuade or move or facilitate a 'priority' without creating 'preferences' ('preference' being anticompetitive). According to one of our participants, huge pressure is applied below the surface via purposeful diplomacy by commercial organisations to move decision-makers in government to prioritise in procurement particular standards met by certain products and services. Governments often play a core role in such activities. For example, the UK's processes for new train infrastructure procurement (HS2) gave priority to British producers of slabs and specialist steels and for production methods.

(c)-(e) are addressed in the remainder of the report. We propose that (a) and (b) raise the question of whether legal action may be facilitated by means of one of the following measures:

- Requiring parity of resources between parties to a case
- Imposing a ceiling on the legal resources that can be committed by either party
- Enabling cases to be heard by experts in (partially) closed sessions

3.1 Case study of industrial consortia --The IACS proceedings

The International Association of Classification Societies (IACS) licenses shipping companies to certify ships for insurance eligibility and therefore for operation in the market. Legal action was brought against IACS by the EC in 2009 and the case¹ was described to us as the most relevant on the standard-setting functions of a collective body and the obligations such a body is subject to.

IACS was formed in September 1968 by the world's seven largest classification societies, with the aim of combining technical knowledge and experience in order to support maritime safety and regulation. At the time of the legal case it had ten members and one associate. According to IACS's own claim, more than 90% of the world's cargo carrying tonnage is covered by the classification design, construction and through-life compliance rules and standards set by the members.

¹ http://ec.europa.eu/competition/antitrust/cases/dec_docs/39416/39416_2325_1.pdf

Membership of IACS was viewed by the European Commission as being a gateway for success in the classification market: if a company was not a member then there would be a large category of work that they would be *de facto* excluded from, because they had a combined market share of 90%. To be a member meant that a company could certify ships being built and maintained. Ship insurers, P&I² clubs, and other kinds of insurers would only provide insurance or brokerage, and operators would only want to charter ships that could certify they were in line with IACS rules. This meant that those who could not certify would be excluded from most international work. In other words, IACS was regarded as being a de-facto standard setting body. It was not a *de jure* body, because there was no law that gave it exclusive right to grant classifications that ships were being built in line with legal rules.

This case concerned the rules on gaining membership of the association and participation in its work, and the rules on gaining access to its work product. 5 EU members of the organisation were raided by the European Commission. 5 non-EU members were not raided but received requests for information. The case was resolved by securing commitments from IACS – commitments in this context being a legally binding set of regulations. The decision required IACS to:

- Change their membership criteria to be more transparent and objective. The criteria incorporated too much subjectivity in appraisal of applicants. Membership criteria was to be rewritten to be more empirical and to present a closer and more definable relationship between the criteria and the work of IACS. IACS was also required to set up an appeals body for those whose applications for membership were rejected and for those whose memberships were rescinded. This was meant to be staffed by people independent of members. Finally, periodic appraisal was established to verify that members continued to meet the membership criteria.
- Create a forum intended to allow classification societies who weren't full members to participate in the technical work, meaning in the development of rules and procedures in classification.
- Establish a more rigorous process for publishing IACS work product including drafts.

4 FRAND in procurement: Intellectual Property and telecoms case law

A de jure or de facto standard setting organisation is required as a matter of principle to make its standards available on fair terms to competitors. A procurement body would need to be careful to define the terms of the tender in such a way that not only a dominant market player or market players can satisfy them. This requirement is relevant to, for example, manufacturers of person screening detectors at airports where some companies are dominant. In the case described above, IACS decided to publish its rules and procedures and working documents freely on its website. Alternatively, a standard-setting body could create a licensing regime for potential users. In such a case, they have to do so in a way that is FRAND. The question of what FRAND requires in practice is, however, controversial. For example, it is not always obvious what sort of royalties a company can demand for intellectual property, especially if they are starting from a dominant position. There is some guidance from the courts and a

² Protection and Indemnity clubs

significant body of litigation between telecom companies about what royalties they can charge in relation to patents which become standards. However, this is only of limited relevance to the work of the national standards bodies most active in the security product field. These have membership procedures that are potentially more inclusive and open than those of the telecoms standard-setting bodies.³ If someone wanted to obtain the license to develop the technology they would ask the company that owned the patent to provide them with a license on FRAND terms.

However, it is not easy to determine the level of the royalty. It should not be prohibitive, but it is hard to value the technology accurately. A valuation would need to take into account, among other things:

- The R&D costs the patent-holder might have made
- Whether there is a comparator or benchmark
- The revenues that either they or the competitor would generate

In addition to these challenges, there is time pressure, because in a procurement context the relevant parties need a means of resolving the issue quickly enough to meet the deadlines of the tender.

In light of this, options should be explored for establishing reliable and transparent procedures for calculating royalties, not only to facilitate fast responses to procurement actions, but also to ease the path for smaller firms considering litigation in response to unfair exclusion from the market.

5 National Security Clauses as Barriers to Competition

The national security clause that permits governments and standards bodies to act in ways that promote one country's industry, as this prerogative has been extended for product specification. A number of participants said that attempts to harmonise standards would inevitably come up against the discretion of governments to declare a national security exception. The view was expressed by interviewees that some countries often - or more often than other countries - supplement and modify their standards in ways that favour a national or preferred supplier. This needs to be considered when developing a harmonised approach, to make sure that all such needs are minimised or kept at an EU level. A harmonised framework should consider these aspects and include mechanisms to handle or reduce national exceptions. A common security mark and/or product database together with harmonisation of performance and testing standards at the EU or international level would reduce the risk that national suppliers are favoured. This has been taken into consideration during the development of the HECTOS framework for harmonised certification of physical security products [2].

A related issue raised by a number of participants is the fact that some of the standards for compliance and some of the specifications that must be met in order to be tested for compliance are secret. Some security standards have classified elements. This means that in order to gain access to the standard, companies must be security vetted in advance. Such vetting can take

³ A good example of a collective standard setting organisation in telecoms is ETSI (European Telecommunications Standards Institute) generated 3G, 4G, and GSM standards.

time, and the timeframe for responding to calls to tender for procurement can be tight. This may create barriers to compliance with the standard, especially for smaller players which do not have the clearance necessary to gain access to the classified information. While it was described to us as more of a procedural barrier than an insurmountable impediment to access, secrecy may confer an advantage on larger or more established companies as new market entrants will have to go through the security procedure.

The participants were of the opinion that the national security prerogatives would remain a serious barrier to competition as they would only make it possible to harmonise parts of testing regimes. Participants did not see indications that there is a drive amongst member states to work to a common agreed standard. It was also pointed out that there is a risk that standards developed with many organisations - EU standards in particular - tend towards higher levels of generality in their specifications, as an inevitable result of the attempts to achieve consensus. The added specificity introduced at a national level may also be in part an attempt to re-introduce the kind of detail desired by domestic markets. A harmonised standard would address this problem, but not necessarily the issue of access posed by the need to get security clearance. In order to address this, the amount of information held classified should also be at a minimum and steps should be taken to ensure the secrecy prerogative is not mis-used (for example, it might be reviewed by independent external parties).

The role of commercial companies in developing standards and in pushing at an EU level for those standards to be the dominant one where there is competition between standards, appeared to be a concern for a number of participants. Yet participants were reluctant to provide specific examples and offer indications of how this perceived problem emerges in the security product field and how it should or might be addressed. Still, it seems important to flag the possibility that such efforts to influence may exist, and also that when developing the harmonised certification schemes, care must be taken to avoid imbalance between the influence exerted by specific states.

Any implication that standards emerging from the open processes of standards bodies were subject to this kind of influence was strongly resisted from those participants working in those fields. However, one such participant said that, generally speaking, the harder it is to reach a consensus between parties to a standard-setting process, the more generic the resulting standard is likely to be. This is because greater generality can avoid the kind of specification that might meet resistance from particular players. The greater generality of EU standards was given as an example of what is likely to occur from processes involving many players with potentially incompatible preferences. To the extent that greater harmonisation is attempted with respect to the content of standards, one potential effect may be the greater generality of the resulting standard.

6 The Market in Testing

Inconsistent test results between laboratories is a problem for the security product market, as other strands of HECTOS work indicate. One early idea to solve inconsistent test results among labs was to minimise the number of test laboratories in a scheme – or even allow for only one test laboratory. However, there is a risk that this restriction may undermine competition not only in the market for testing but also slow growth in the market in products. Such a move is likely to favour national laboratories and large testing institutes that have a significant presence

in furthering research and development in the specific area or field. Reducing the number of test laboratories may influence the standard-setting process in ways that make standards become more onerous for producers. The more expensive testing is and the longer it takes, the more reluctant manufacturers – especially newer, smaller players, will be to enter the market. However, unburdened of competitors, test laboratories may find it difficult to resist the temptation to make testing procedures more elaborate so as to generate further business for themselves - to the detriment of manufacturers and consumers. Only allowing one or very few test laboratories in a scheme may exacerbate this, resulting in cumbersome and complex certification processes. Once again, there is a need to balance the potential benefits of a certification scheme or system that ensures consistent test results with the risks of overly-onerous testing procedures. It is important to mention that the HECTOS framework does allow for multiple test laboratories in the harmonised schemes.

What kinds of actions, if any, can and should regulators take to address these risks? The participants in our study did not provide many positive suggestions for this, but we here flag the following possibilities. One approach might be to nationalise this part of the business of test laboratories, so that they are no longer so responsive to a profit motive. Another might be to devise a set of principles that should be followed by test laboratories when determining procedures and then incentivising test laboratories to follow these, perhaps by means of an independent oversight body.

7 Conclusion and recommendations

As this report has outlined, standard-setting, testing, and certification processes can present potential barriers to competition as well as facilitating markets. Similarly, harmonisation should explore steps to ensure the process is as open, transparent, streamlined, and cheap as possible. In terms of facilitating the litigation of illegal behaviour, some potential courses of action could be explored. For example, regulators could consider requiring parity of resources between parties to a case or imposing a ceiling on the legal resources that can be committed by either party. The possibility of enabling cases to be heard by experts in (partially) closed sessions could also be explored. Establishing a procedure by which royalties can be determined is one possible way in which responses to calls for procurement can be facilitated and litigation supported. In terms of the role of test laboratories, regulators may consider nationalising the relevant parts of the business and/or establishing enforceable (even if only in ‘soft’ terms) standards for testing so as to prevent the self-serving development of overly cumbersome procedures.

The prerogative member states of the EU enjoy to determine security policy domestically and the secrecy it protects is clearly the single most serious barrier to competition in the EU security product sector, when it comes to procurement activities. Yet it is unlikely to change unless the political will to do so materialises. It must also be acknowledged that the ability to classify aspects of standards is clearly considered vital to national security by states. It is well beyond the scope of this project to comment or make recommendations on this issue, but it is important to point out that, given the status quo, the potential of harmonisation to address anticompetitive behaviour could be limited. Therefore, a harmonised approach should seriously consider this issue. Even though being challenging to accomplish, a common security mark and harmonised security requirements are mechanisms which may mitigate anticompetitiveness.

8 References

- [1] Communication From The Commission To The European Parliament, The Council And The European Economic And Social Committee, Security Industrial Policy, COM(2012) 417 final, July 2012
- [2] HECTOS D3.3, *HECTOS Harmonised Security Product Certification Scheme Framework and Templates*, 2017
- [3] HECTOS D8.2, *Elements for roadmap on European certification, accreditation and standardisation for physical security products*, 2018

9 Abbreviations and Definitions

CCTV	Closed-Circuit Television
EAB	Ethics Advisory Board
EC	European Commission
FRAND	Fair, Reasonable And Non-Discriminatory
HSSREC	Humanities and Social Science Research Ethics Committee
IACS	International Association of Classification Societies
P&I	Protection and Indemnity



Annex 1

PARTICIPANT INFORMATION SHEET

Study Title: Competition Issues Arising with Standardisation and Certification in the Security Product Sector

Investigator(s): Dr Katerina Hadjimatheou and Prof. Tom Sorell

Introduction

You are invited to take part in a research study. Before you decide, you need to understand why the research is being done and what it would involve for you. Please take the time to read the following information carefully. Talk to others about the study if you wish.

(Part 1 tells you the purpose of the study and what will happen to you if you take part. Part 2 gives you more detailed information about the conduct of the study)

Please ask us if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part.

PART 1

What is the study about?

This study aims to gather the views of stakeholders and lawyers on the competition issues arising in the context of testing, evaluation, and certification of security products (all kinds of security products from CCTV; biometrics; explosives detection; fences; locks etc).

We are interested in finding out about issues such as:

- cases in which hard-to-comply-with standards or hard-to access certification are used as a barrier to imports and as a hidden support for domestic companies
- the ways in which countries or companies might be able to continue to game the system even in the light of greater efforts towards harmonisation
- potential tensions between greater harmonisation and, for example, innovation
- how procurement regulations might come into play in these areas

This study will inform a larger EU-funded project about standardisation and certification of security products (from CCTV to biometric access control to locks and gates and body-scanners). The project is called HECTOS. You can find out more about it by reading the text in the box below.

HECTOS project abstract

There are very few evaluation and certification procedures in Europe for physical security products that are mutually recognized by EU Member States. As pointed out in the EC Communication on Security Industrial Policy, this leads to fragmentation of the market, with negative impacts on both suppliers and users.

HECTOS is an EC-funded security research project that aims to address some of these issues. Its aim is to identify mechanisms to evaluate the performance of security products as well as to evaluate their compliance with interoperability, regulatory, ethical, privacy, and other requirements. The project will produce elements for a roadmap for the development of harmonised European certification schemes for physical security products, and provide standardisation bodies with proposals for new work items.

Do I have to take part?

It is entirely up to you to decide. We will describe the study and go through this information sheet, which we will give you to keep. If you choose to participate, we will ask you to let us know by email and to consent verbally on the phone to confirm that you have agreed to take part. You will be free to withdraw at any time, without giving a reason and this will not affect you or your circumstances in any way.

What will happen to me if I take part?

You will participate in a short (20-45 minutes) recorded telephone/Skype interview with us (Kat Hadjimatheou and Tom Sorell). We will ask you some questions, all of which you will have had a chance to look at in advance as we will send them by email.

What are the possible disadvantages or risks of taking part in this study?

We do not envisage any risks to you or your work because we will not be asking sensitive or personal questions. You may discuss conduct that is anticompetitive or otherwise reflects badly on the reputation on the workings of your employer or other actors in the sector. For this reason your anonymity will be preserved and reference to any companies, standards, or products discussed will be edited out of the report.

What are the possible benefits of taking part in this study?

Benefits to you include an opportunity to discuss issues affecting your work, some of which are widely known but rarely acknowledged officially. Your views will be fed into a report that will be read by the project partners (testing houses, standards institutes, technology developers) back to the European Commission, which may be able to take action to improve aspects of the current arrangements, to the benefit of your work and the sector as a whole.

Expenses and payments

No expenses or payments are offered as your involvement will be by means of a phone call or skype call.

What will happen when the study ends?

The results gathered from the interviews will be explored in a written report, which we will deliver to the project in October 2017.

Will my taking part be kept confidential?

Yes. We will follow strict ethical and legal practice and all information about you will be handled in confidence. Further details are included in Part 2.

What if there is a problem?

Any complaint about the way you have been dealt with during the study or any possible harm that you might suffer will be addressed. Detailed information is given in Part 2.

This concludes Part 1.

If the information in Part 1 has interested you and you are considering participation, please read the additional information in Part 2 before making any decision.

PART 2

Who is organising and funding the study?

The study is organised by Dr Kat Hadjimatheou and Prof Tom Sorell as part of the HECTOS project, which is funded by the European Commission.

What will happen if I don't want to carry on being part of the study?

Participation in this study is entirely voluntary. Refusal to participate will not affect you in any way. If you decide to take part in the study, you will need to provide verbal consent, which means confirming when prompted that you have given your consent to participate.

If you agree to participate, you may nevertheless withdraw from the study at any time without affecting you in any way.

You have the right to withdraw from the study completely and decline any further contact by study staff after you withdraw.

Who should I contact if I wish to make a complaint?

Any complaint about the way you have been dealt with during the study or any possible harm you might have suffered will be addressed. Please address your complaint to the person below, who is a senior University of Warwick official entirely independent of this study:

Head of Research Governance

Research & Impact Services

University House

University of Warwick

Coventry

CV4 8UW

Email: researchgovernance@warwick.ac.uk

Tel: 024 76 522746

Will my taking part be kept confidential?

Yes. The interviews will be anonymised, meaning that we will make sure that names and any information identifying specific individuals, companies, standards, or products are carefully edited out. Professional transcribers approved by Warwick University will transcribe the interviews and then delete their recordings. Access to the transcripts will be encrypted. The original recording of the interview will also be wiped from the recorder as soon as the digital files are uploaded. There are no plans for the data to be used by anyone other than the researchers.

The transcripts of the interviews will be stored on a secure server for a minimum of ten years in accordance with research practice at the University of Warwick (Research Data Policy: available at:

http://www2.warwick.ac.uk/services/rss/researchgovernance_ethics/research_code_of_practice/datacollection_retention/research_data_mgt_policy). There is no maximum set storage time, but after this period Warwick University library staff and representatives from the Department of Politics and International Studies will review access to the data may be removed and decide whether the dataset should be removed.

What will happen to the results of the study?

The results gathered from the interviews will be explored in a written report, which we will produce in October 2017. The report will feed into the broader work of the HECTOS project, which aims to produce elements for a roadmap towards EU harmonisation of the standardisation and certification of security products. It will be seen by other project partners (technology institutes, researchers, and standardisation bodies) and by officials of the European Commission. We will ask if you would like us to share this report with you in draft form, to give you a chance to comment, and again when it is finalised.

Who has reviewed the study?

This study has been reviewed and given favourable opinion by the University of Warwick's Humanities and Social Science Research Ethics Committee (HSSREC):

What if I want more information about the study?

If you have any questions about any aspect of the study, or your participation in it, not answered by this participant information sheet, please contact:

Kat Hadjimatheou, k.hadjimatheou@warwick.ac.uk, +44(0)7837549931.

Thank you for taking the time to read this Participant Information Sheet.

Annex 2

CONSENT FORM

Title of Project: Competition Issues Arising with Standardisation and Certification in the Security Product Sector

Name of researchers: Dr Katerina Hadjimatheou and Prof. Tom Sorell

Please initial box

- 1. I confirm that I have read and understood the information sheet provided for the above study. I have had the opportunity to consider the information, ask questions and have had these answered satisfactorily.
- 2. I understand that my participation is voluntary and that I am free to withdraw at any time without giving any reason.
- 3. I understand that my participation will be recorded and I agree for the researchers to use anonymized verbatim quotations.
- 4. I understand that my data will be securely stored for a minimum of 10 years, in line with the University of Warwick’s Research Data Management Policy. After that time, the storage and retention of the data will be reviewed by University staff.
- 5. I agree to take part in the above study.

Name of Participant

Date

Signature

Name of Researcher
taking consent

Date

Signature

Annex 3

Competition Law Issues Relating to Harmonisation of Standards and Certification in the Security Product Sector

There are very few evaluation and certification procedures in Europe for physical security products that are mutually recognized by EU Member States. As pointed out in the EC Communication on Security Industrial Policy, this leads to fragmentation of the market, with negative impacts on both suppliers and users.

HECTOS is an EC-funded security research project that aims to address some of these issues. Its aim is to will identify mechanisms to evaluate the performance of security products as well as to evaluate their compliance with interoperability, regulatory, ethical, privacy, and other requirements. The project will produce elements for a roadmap for the development of harmonized European certification schemes for physical security products, and provide standardization bodies with proposals for new work items.

HECTOS Work Package 6: Ethics and Law

This work stream identifies, assesses, and provides recommendations on legal and ethical aspects of the project.

Task 6.4 of this work stream involves gathering legal expertise on the competition law issues arising in the context of testing, evaluation, and certification of security products.

In order to do this, we are organizing a workshop, to consider **the extent to which harmonisation could be optimized so as to reduce competition disputes and resolve current competition issues in the standardization and certification of security products.** For example, we would like to discuss competition issues arising from:

- cases in which hard-to-comply-with standards or hard-to access certification are used as a barrier to imports and as a hidden support for domestic industrial companies
- the ways in which countries or companies might be able to continue to game the system even in the light of greater efforts towards harmonization
- potential tensions between greater harmonization and, for example, innovation

The workshop will invite **a small group of specialist lawyers to present their views on such issues and discuss them in depth** with interested HECTOS stakeholders. A report identifying the issues relevant to the roadmap will be drafted and circulated to participants for feedback before being integrated into the project outputs and submitted to the Commission.

Workshop schedule

11-16 at Warwick University in Brussels Office, Schuman:



11.00-11.30	Introduction to HECTOS Introduction to WP6	Anders Elfving, FOI-Swedish Defence Agency Prof. Tom Sorell, Warwick
11.30-12.30	Title (Presentation 1)	NN ⁴
12.30-13.30	Title (Presentation 2)	NN
13.30-14.30	Lunch	
14.30-15.30	Presentation 3 (Max 40 mins) and discussion	NN
15.30-16.00	Wrap up discussion	All

⁴ The names of the confirmed external presenters are kept anonymous in order to avoid dissemination of personal data.

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