

## Call for papers No. 3/2022

### LAW, MARKET & INNOVATION OPEN CALL FOR PAPERS

The JLMI welcomes submissions on any of its areas of interest (for details, see <https://www.ojs.unito.it/index.php/JLMI/about>). Deadlines and publication policies are outlined below.

### THEMATIC CALL FOR PAPERS

#### Setting Standards: Regulation and Innovation in the Age of Technology

This thematic Call for Papers of the Journal of Law, Market & Innovation (JLMI) concerns the third issue of 2022, to be published at the end of **November 2022**, and is devoted to “**Setting Standards: Regulation and Innovation in the Age of Technology**”.

The Call aims to gather contributions addressing the nature and place of technical standards – both *de iure* standards by SSOs and *de facto* standards – in the governance of innovation. In the EU, the relevance of technical standards was made clear in the *Fra.bo* (2012) and *James Elliot* (2016) judgments of the CJEU. These judgments prompted contradictory positions regarding the transparency, publicity and justiciability of technical standards among European legal scholarship and even between the European Commission and the European Parliament. These contradictory positions have reached the CJEU again through the *Stichting Rookpreventie* case currently under review by the Grand Chamber.

The importance and value of technical standards is growing also due to the ever-increasing globalisation of commerce, the rise of new technologies and the necessity for a wider and smoother interoperability among technologies. Technical standards are recognised to play an essential role since they enable users to send, receive and store ever larger quantities of data, and efficiently access, stream or store content online.

As recognised in the final report on consumer Internet of Things sector inquiry published by the EU Commission in January 2022, “the use of consumer IoT products is increasingly becoming part of everyday life for Europeans, [and] the consumer IoT sector is expected to grow significantly in the coming years”. The growing demand for digital services, the rise of the Internet of Things (IoT) and of Artificial Intelligence applications all imply that more and more products from different manufacturers need to be able to seamlessly ‘talk to’ each other to provide value to consumers.

In many cases, technical standards require the use of technologies protected by patents. A patent that protects technology which is essential to implementing a standard is known as a Standard Essential Patent (SEP). Without using the methods or devices protected by these SEPs, it is difficult for an “implementer” of the standard to create standard-compliant products, such as smartphones or tablets. Patents play an important role in creating an ecosystem that encourages and enables businesses to innovate. This principle of rewarding IP owners for their investment characterises the functioning of the patent system as a whole. Competition also plays a crucial role promoting consumer choice and lowering prices as more firms enter the market and today the relationship between competition and innovation is becoming particularly challenging.

In this scenario, interoperability and access to data remain the key themes for policy-makers all around the world. In many jurisdictions there is indeed a heated debate on how SEPs, cross-

licencing agreements practises and patent pools ecosystems are functioning, and whether the current ecosystem strikes the right balance among stakeholders.

The Editors invite submissions investigating the genesis, the role and the justiciability of technical standards as well as the relationship between competition and IPRs with specific focus in the SEPs ecosystem and other burning issues related to the emergence of new digital technologies. This study appears particularly topical if one considers the ubiquitous part and growing importance of standardisation to regulate emerging technologies from an *ex-ante* perspective in international and European markets for new products and services (cf. in particular the case of artificial intelligence standardisation, on which see the European Commission's Proposal for a Regulation on Artificial Intelligence, COM/2021/206 final).

Contributions are welcome both from a legal theory perspective, as well as from experts of competition law, comparative law, EU law and/or IP law. We particularly welcome contributions addressing: the private governance of standards; the role of SEPs; the technological character of merely-technical standards; their role in policy-making; issues of access, transparency, publicity and accountability of technical standardisation processes and patents therein included; the interplay between compliance of international standards and the presumption of diligence for liability purposes; how standards can inform general clauses (e.g. with regard to professional diligence or conformity requirements); regulatory guidance and certification mechanisms, codes of conducts, etc.; finally, areas of standardisation that go beyond data access and interoperability, but touch upon matters like intelligibility, controllability, bias, etc..

---

Authors are invited to address questions and issues arising from the specific area of law relating to their topic. All types of legal approaches will be considered for publication. However, please note that any analysis solely limited to a national legal system will fall outside the scope of the Journal. An international, supranational or transnational legal dimension is imperative. The Board of Editors will select articles based on quality of research and writing, diversity, and relevance of topic. The novelty of the academic contribution is also an essential requirement. Prospective articles should be submitted in the form of abstract (around 800 words) or draft articles (see below) to [submissions.jlmi@iuse.it](mailto:submissions.jlmi@iuse.it) by **31 March 2022**. Accepted authors will be notified by **15 April 2022**. Final articles shall be delivered by **20 July 2022** and should conform to the journal style guide that is based on OSCOLA. Typically, the JLMI accepts contributions within the range of 10.000 to 15.000 words, including footnotes, but both shorter and longer articles will be considered. Pre-selected articles will be subject to double-blind peer review. For further information, or for consultation on a potential submission, you can contact us by email at [editors.jlmi@iuse.it](mailto:editors.jlmi@iuse.it).

The Journal of Law, Market & Innovation (JLMI) is an initiative of the [Turin Observatory on Economic Law and Innovation](#). The JLMI is an open access journal of the University of Turin that aims at fostering research with respect to the regulatory challenges posed by markets and innovation in our times. The JLMI relies on an interdisciplinary methodology. More information at <https://www.ojs.unito.it/index.php/JLMI>.

The Editors of this issue are **Riccardo de Caria**, Professor of Comparative Public Law at the University of Turin, **Cristina Poncibò**, Professor of Comparative Private Law at the University of Turin, and Mr **Dario Paschetta**, LL.M., attorney-at-law.

# Journal of Law, Market & Innovation