



Welcome to the World of Standards



AN OVERVIEW OF ETSI

Maïssa Bahsoun – ETSI Legal Advisor

LES France - ASPI - APEB Conference on FRAND licenses, Paris, 14 June 2016

- **French not-for-profit organisation (association 'Loi 1901')**
- **Recognised by the EU as a European Standards Organisation**
 - Regulation 1025/2012 (superseding Directive 98/34/EC)
 - 'Standard': a technical specification, adopted by a recognised standardisation body, for repeated or continuous application, with which compliance is not compulsory
 - Standards from the 3 ESOs (ETSI, CEN & CENELEC) > European Standards supporting European regulation and legislation
- **Develops ICT standards for global use**
 - Originally established to serve European needs, ETSI has become a producer of standards for global use
 - Strategic collaboration with global and regional standards-making organizations (e.g. mobile communications in 3GPP)
 - Interoperability > crucial factor in mass-market

Global

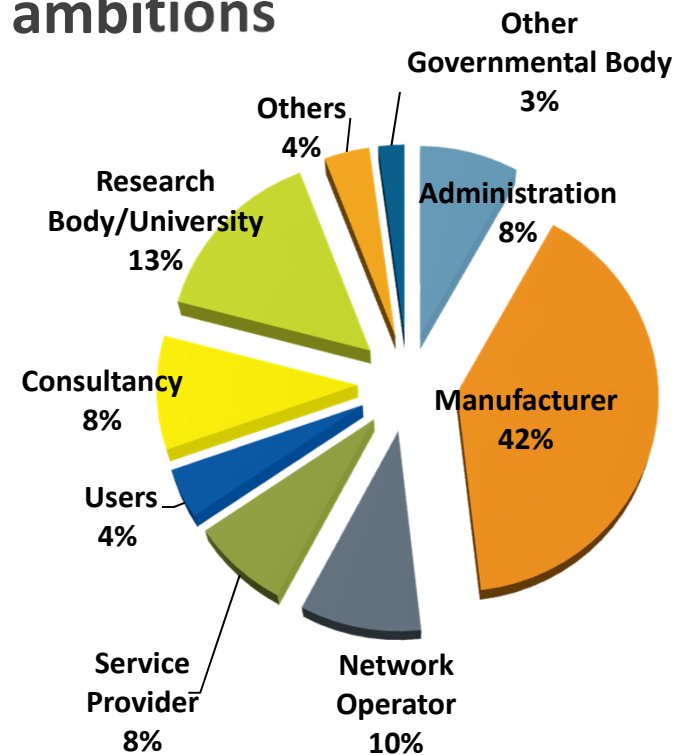
- Over 800 members drawn from 66 countries across 5 continents

A dynamic mix of skills, horizons & ambitions

- Top telecom companies
- Manufacturers
- Network operators
- 25% SMEs and micro-enterprises
- Etc...

Open approach

- Direct participation
- Consensus-based



- **ETSI IPR Policy seeks a balance between all stakeholders**

- **Essential IPRs or Standard Essential Patents (SEP)**
 - Many patented technologies comprised in ETSI standards
 - Essentiality results from the fact that implementation of the standard will necessarily result in an infringement of the patent in question (Article 15 ETSI IPR Policy)
 - Patent which is required for implementing an ETSI standard and for which a FRAND license is needed → if no license taken, implementer of the ETSI standard is an infringer
 - No 3rd party check of essentiality (nor of validity) → patents in ETSI IPR database 'self-proclaimed' to be essential
 - Patent may never be granted or granted but with narrower scope > update always possible

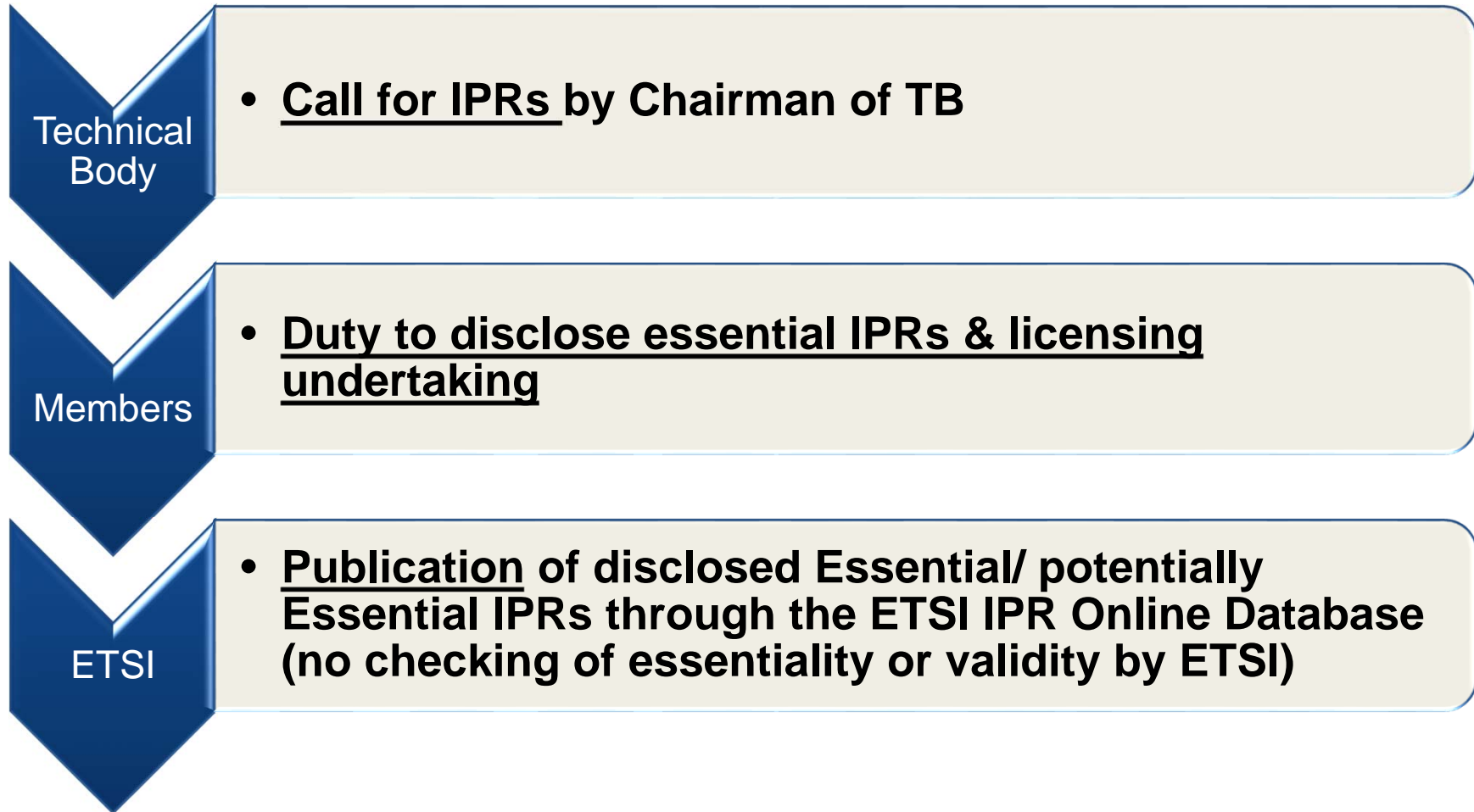
- **No involvement of the ETSI Secretariat in licensing negotiations**

Disclosure of SEPs

- Broad scope > granted patents and patent applications
- Broad time window > ‘in a timely fashion’ but no specific deadline
- ETSI IPR database (<https://ipr.etsi.org/>) provides information on SEPs exactly as given by SEP holders
- Notification of 3rd party SEPs possible

SEP holder requested to grant an irrevocable Fair, Reasonable and Non-Discriminatory (FRAND) licensing undertaking for their SEPs

- No obligation to give an undertaking to license under FRAND T&Cs but specific procedure in case of non-availability of FRAND licenses → Work-around (Article 8 ETSI IPR Policy)
- Flexible concept in most SSOs & more detailed concept in others



• **Advisory ad-hoc group of ETSI General Assembly**

- Open to all ETSI members and to the European Commission
- Consensus-based – no vote

• **Discussions in IPR SC have led to major improvements of the ETSI IPR Policy**

- Disclosure obligations
- Patent family & procedure of non-availability of FRAND licenses
- FRAND undertaking binding on the transferee in case of transfer of ownership of the SEP

• **Any IPR topic can be brought to the IPR SC for discussion**

- Minimum of 5 ETSI members or at the Chairman's discretion
- Broad variety of topics discussed in the last 4 years

FRAND

- Concepts of royalty base and royalty rate debated
- Diverging views (SEP holders v. implementers)

Injunctive relief

- Intensive discussions but no consensus agreement
- On-hold since the CJEU decision in *Huawei v. ZTE* case

Transparency

- SEP declarations can serve as a basis for licensing negotiations
- Various ideas discussed
 - Update of declarations once patent granted/standard adopted
 - Provision of evidence supporting essentiality
 - 3rd party essentiality assessment
 - Improvement of patent information in the ETSI IPR Database

maissa.bahsoun@etsi.org

04 92 94 42 47

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Thank you!