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CRIMINOLOGICAL AND LEGAL ASPECTS OF CROATIAN PORTS AND MARINAS SECURITY



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CRIMINAL JUSTICE AND SECURITY IN CENTRAL AND EASTERN EUROPE FROM COMMON SENSE TO
EVIDENCE-BASED POLICY-MAKING
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1.) INTRODUCTION

→ results of phenomenological research of criminal offences as the most severe forms of threat to security in Croatian ports and marinas.



→ legal aspects related to security in Croatian ports and marinas

→ overview of the existing legal framework relating to security in the ports and marinas.



- The study deals with criminological features of **981 offences** committed in Croatian ports and marinas in a seven-year period:
- from 1 January 2010 to 31 December 2016.

- The data includes **all reported criminal acts** committed in **sea and inland ports and marinas**.
- The focus was mainly on the sea ports and marinas because only **four** criminal acts were committed in **inland ports**.
- The data on criminal offences was gathered from the records of the *Ministry of the Interior*.
- The collected data was statistically processed using the IBM SPSS 20 software tool.

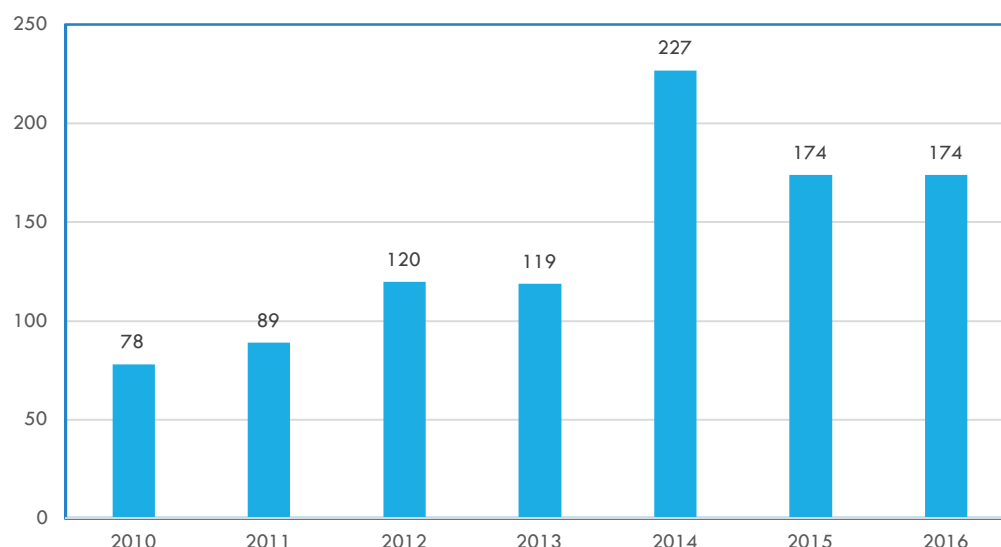
The initial hypothesis of this research

is that **considerably more criminal offences are committed in ports open to public traffic \neq compared to marinas**
and that **most of these offences are crimes against property committed during summer season.**



2.) CRIMINOLOGICAL ASPECTS OF CROATIAN PORTS AND MARINAS SECURITY - RESULTS AND DISCUSSION

Number of reported criminal offences (N=981)

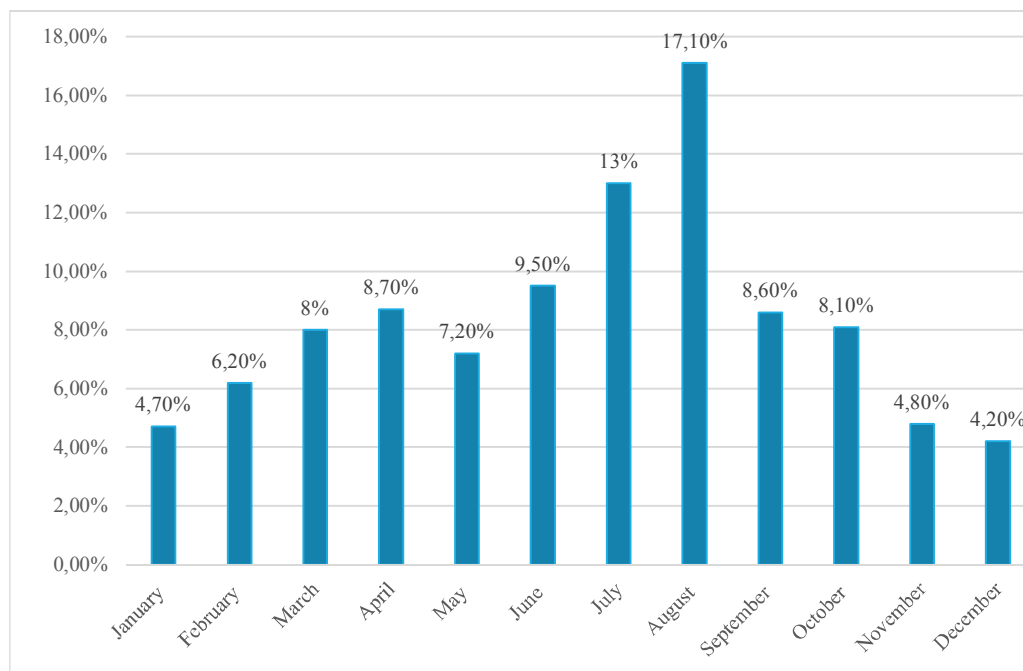


$(\chi^2 = 1.225, df = 6, p < 0.001)$

The initial analysis showed that in the first part of the seven-year period there was a **rising trend** of criminal offences committed in ports and marinas.

The second part of the analyzed period recorded a decrease in the number of criminal offences by 23% in 2015 and 2016.

Distribution of criminal offences per month throughout a year (N=981)



▪ ($\chi^2 = 1.766$, $df = 11$, $p < 0.001$)

The largest number of criminal offences was recorded during summer tourist season when almost a third of the analyzed offences occurred.

Considering the **time** when the criminal offences occurred:

The analysis also indicates that more criminal offences were committed **in ports open to public traffic** (69%), whilst only 16,9% occurred **in marinas**.

Territorial distribution of the analyzed criminal offences:

Criminal offences committed in the streets or promenades alongside ports open to public traffic have also been considered:
a total of 8.9% of criminal offences were recorded there.

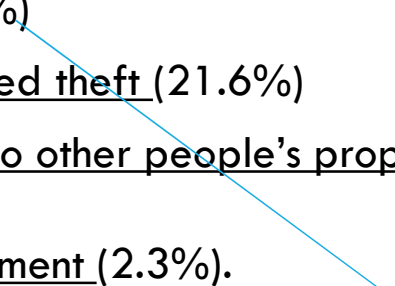
- 39.3% of them were committed during several day periods of absence of the owners from their vessels
- 37.2% of criminal offences were committed in the evening or at nighttime
- 23.4%, were committed at daytime.
- the majority occurred in Split-Dalmatia County (27.8%),
- Istria County (26%)
- Primorje-Gorski Kotar County (20.9%)

The structure of crime in terms of **types** of criminal offences:

A total of 83.8% of the analyzed criminal offences are **offences against property** which can be broken down into:

There are certain criminal offences which are less frequent such as:

- drugs abuse related offences (3.7%),
- threats (2.9%),
- forgery of documents (1.4%)
- and customs control evasion (1.1%).

- theft (51%)
 - aggravated theft (21.6%)
 - damage to other people's property (11.2%)
 - embezzlement (2.3%).
- 

The largest share in the theft category belongs to the cases of burglary in vessels (20.5%).

The majority of items stolen from vessels are:

personal items, nautical gear, vessel equipment (30.3%).

If we compare this structure of criminal activity with the main threats to security in the other European ports (including transport of bombs by ships or using ships as bombs, illegal migrations), we can see that they do not fit in this scope.

➤ Most of the victims of the analyzed criminal offences are **natural persons**.

➤ Most of the victims of criminal offences are (in 76.4% of cases).

➤ Foreign citizens are of cases.

➤ Foreign citizens are mainly victims of **theft** and **aggravated theft** and similar **crime against property**, and they are rarely victims of other criminal offences in ports and marinas.

The **perpetrators** were found in 23.3% of the analyzed cases → relatively low percentage of discovered perpetrators of criminal offences in ports and marinas.

	Croatian citizens N (%)	Foreign citizens N (%)	All N (%)	χ^2
Theft	401(53.7)	99(60.4)	500(54.9)	
Aggravated theft	171(22.9)	41(25.0)	212(23.3)	
	101(13.5)	9(5.5)	110(12.1)	
		0(0)	2(0.2)	
		1(0.6)	28(3.1)	
		8(4.9)	23(2.5)	
Fraud		2(1.2)	9(1.0)	
Bodily injury	6(0.8)	2(1.2)	8(0.9)	
Other criminal offences	17(2.3)	2(1.2)	19(2.1)	
Total	747(100)	164(100)	911(100)	

3.) LEGAL ASPECTS OF CROATIAN PORTS AND MARINAS SECURITY

Port Security is regulated by:

- Security Protection of Seagoing Ships and Ports Act (2017) (SPSSPA)
- International Ship and Port Facility Security Code (2003) (ISPS Code)
- Regulation (EC) no 725/2004
- Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security (2005).

☐ = Croatia harmonized its national legislation with the EU legislation on port security

Each major port has at least one PFSO responsible for the ISPS/SPSSPA implementation

Marinas are free to implement **their own security policy**

According to the SPSSPA, it is a responsibility of the **port operators** to ensure port security, conduct port security assessments, developing port security plans implementing detailed security measures, designating port security officers and port facility security officers (PFSO), ensuring that training of port security personnel and drills take place regularly and that security equipment is properly operated, tested and maintained.



Marina Security

- There is no marina in Croatia where public access has been entirely excluded:
- they are freely accessible from the waterside,
- access from the land is partly limited and controlled,
- marinas have one or more entrance gates,
- the entry of vehicles is controlled, access is free for pedestrians,
- some marinas use locked gates at the piers,



- peers, moorings and waterside are patrolled regularly by the marina dock staff = but there are responsible primarily for berthing assistance, safety of navigation and **they are not** trained as security staff,
- most of marinas contract professional security companies,
- and use 24/7 CCTV security systems.



❑ Standard clauses in the marina operators' berthing contracts, contain clauses **expressly excluding liability for third parties' malicious acts.**

❑ The exclusion does not apply if there is proof of lack of due diligence on the part of marina operator or its staff.

❖ Who is liable for damage caused by unlawful acts of third parties in marinas?

MARINA BERTH/MOORING RENTAL AGREEMENT

THIS AGREEMENT made effective as of the _____ day of _____ by and between (the "Licensor") and: _____

LICENSEE: Name: _____

Phone - Bus: _____ Email: _____

The Vessel currently moored on both sides in 100mm high lettering: _____

ACTUAL LENGTH including all overhanging fittings: _____

Draught: _____

Fuel Type: _____

Call Sign: _____

Policy Number: _____

DETAILS OF RENTAL:

Berth Number: _____

Commitment Date: _____

Berth Size: _____

Rent: \$ _____ per day / week / month

Board: \$ _____

NOTE: Recreational Berths cannot be used for commercial purposes of any kind.

1. Scope of Agreement

Subject to all of the terms and conditions contained herein, the Licensor agrees to permit the Licensee to occupy the Berth, and the Licensee agrees to occupy the Berth, throughout the term of this Agreement, and at the rental rate stated above. The Licensor will provide the Licensee with a permit which the Licensee agrees to display on the Vessel at all times when the Vessel is moored in the Berth, and an access card for the Marina which must be presented upon request by Marina personnel.

2. Term

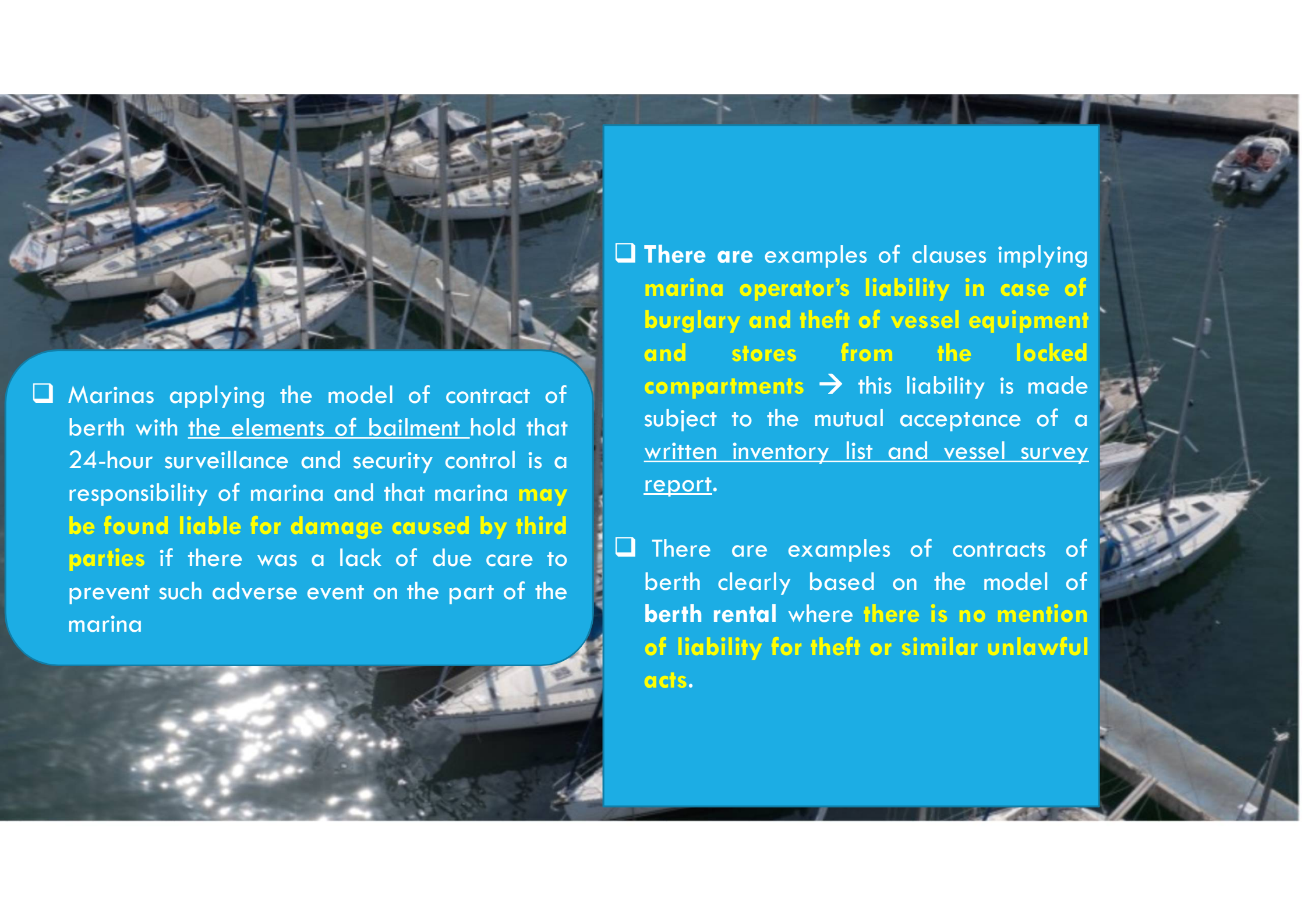
This Agreement shall commence on the _____ day of _____, and shall continue on a _____ (weeks / months) / _____ until terminated by either party as herein provided.

3. Bond

The Licensee agrees to pay the Bond set out in the Details of Rental to the Licensor immediately upon execution of this Agreement. Provided that the Licensee has complied with the terms and conditions of this Agreement and provided that there is no damage to the Berth and no amounts owing by the Licensee at the termination of this Agreement, the Bond shall be refunded to the Licensee on termination.

4. Rental Rate, Payment

4.1 The Licensee agrees to pay the rental rate set out in the Details of Rental monthly in advance at the rate set out herein or as may be amended from time to time.

- 
- ❑ Marinas applying the model of contract of berth with the elements of bailment hold that 24-hour surveillance and security control is a responsibility of marina and that marina **may be found liable for damage caused by third parties** if there was a lack of due care to prevent such adverse event on the part of the marina

- ❑ There are examples of clauses implying **marina operator's liability in case of burglary and theft of vessel equipment and stores from the locked compartments** → this liability is made subject to the mutual acceptance of a written inventory list and vessel survey report.
- ❑ There are examples of contracts of berth clearly based on the model of berth rental where **there is no mention of liability for theft or similar unlawful acts**.

4.) FINALE CONSIDERATIONS

Criminological aspects of security:

the introductory hypothesis: **higher number of criminal offences is committed in ports open to public traffic compared to marinas and that these were mainly offences against property committed in the summer period.**

Low number of criminal offenses leads to the conclusion that the Croatian ports and marinas are safe, and that is what attract tourists among other things.

Personal security is among the most important factors which affect the level of satisfaction of tourists coming to Croatia.

Legal aspects of security:

It is importance to clearly define the scope of liability assumed by marina in accordance with its business model, by implementing well-drafted standard contract forms and general terms and conditions.



Thank you for your attention.
