

EUROPEAN COMMISSION
Directorate General Internal Market and Services

RESOURCES AND COMMUNICATION

Brussels, **27 NOV. 2013**
MARKT/A2/ares(2013) 3779969

[REDACTED]
Law and Economics Consulting
Associates Ltd
5 Fowey Avenue
Ilford
UK-Essex IG45JT

Dear Mr Barker,

Subject: Open call for tenders MARKT/2013/110/B

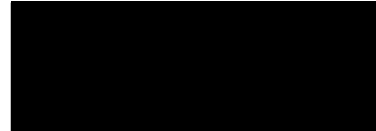
After examination of the tenders received in response to the above-mentioned call for tenders relating to the *"Estimating displacement rates of copyrighted content in the EU"*, we regret to inform you that your bid has not been selected. We very much appreciate, however, your having taken time to prepare and submit an offer.

The decision has been taken to award the contract to **Ecorys Nederland BV** for a total amount of EUR [REDACTED]. **Ecorys Nederland BV**'s proposal was ranked the highest in the light of the quality award criteria, as well as offered the best relation quality-price.

You can find sufficient information on the grounds for our decision in the annexed evaluation form concerning your offer. However, without prejudice to any legal appeal, if you so request in writing, you may obtain additional information, in particular, on the characteristics and relative advantages of the successful tender. However, certain details will not be disclosed if disclosure would hinder application of the law, would be contrary to the public interest or would harm the legitimate business interests of public or private undertakings or could distort fair competition between those undertakings. Any request should be sent to the Commission services by e-mail (ec-intmarket-contracts@ec.europa.eu) before the signature of the above mentioned contract. We will not be signing the contract with the successful tenderer for 10 calendar days from the day following the date of this letter. Should it not be possible to conclude the contract with this tenderer or should he withdraw, we reserve the right to review our decision and to award the contract to another tenderer, to close the procedure or to abandon procurement.

Thank you for your interest in the work of the European Commission. We trust that it will be renewed in future procurement procedures.

Yours Sincerely,

A solid black rectangular box used to redact the signature of the authorising officer.

Authorising Officer

Contact: 
E-mail: EC-INTMARKET-CONTRACTS@ec.europa.eu

Annex: Law and Economics Consulting Associates Ltd's evaluation form of tenderer.

CALL FOR TENDERS MARKT/ MARKT/2013/110/B

EVALUATION FORM OF TENDERER

Tenderer: *Law and Economics Consulting Associates Ltd* **Date offer:** *30/09/2013*

A. Verification of supporting documents requested in Section 1.9 of the Tender Specifications

File complete:

☒ Yes

☐ No

Requests for additional information were sent on October 15th (Ares(2013)3313455). The tenderer replied on October 18th (Ares(2013)3313481).

B. Verification of cases for exclusion and supporting documents requested in Section 2.2 of the Tender Specifications

☒ Accepted

☐ Rejected

C. Verification of financial capacity and supporting documents requested in Section 2.3.1 of the Tender Specifications

☒ Accepted

☐ Rejected

D. Verification of technical and professional capacity and supporting documents requested in Section 2.3.2 of the Tender Specifications

a. Criteria relating to tenderers

Criterion no 1: Tenderer must prove experience in the field of survey design and applied economic analysis of copyright issues (with at least 2 projects delivered in this field in the last three years).

☒ Yes

☐ No

Criterion no 2: Tenderer must prove experience of working in the languages needed to field surveys in the EU countries covered by the study

☒ Yes

☐ No

Criterion no 3: Tenderer must prove capacity to draft reports in English

☒ Yes

☐ No

Criterion no 4: Tenderer must prove experience of fielding surveys in the EU countries covered by the study

☒ Yes

☐ No

Criterion no 5: Tenderer must prove experience in survey techniques, data collection, statistical analyses and drafting reports and recommendations.

☒ Yes

☐ No

b. Criteria relating to team delivering the service

The team proposed by the tenderer shall possess the following combination of qualifications:

Criterion no 6: Understanding of economic analysis of copyright issues, particularly related to consumption copyright-infringing materials, and understanding of the copyright legislative framework at the EU level and at the Member State level for the EU countries covered by the study

☒ Yes

☐ No

Criterion no 7: Knowledge and understanding of welfare economics and economic valuation techniques, as demonstrated by relevant studies or other similar activities

☒ Yes

☐ No

Criterion no 8: Experience and expertise in designing questionnaires, planning and conducting interviews, surveys and market research, proven by previous projects

☒ Yes

☐ No

Criterion no 9: Expertise and capacity to collect and process statistical information and to apply econometric methods required for data analysis as demonstrated by relevant research

☒ Yes

☐ No

Criterion no 10: Capacity to include different Member States in the analysis taking into account the different institutional features and language regimes

☒ Yes

☐ No

Criterion no 11: Ability to carry out projects of this scale and scope, proven by previous projects of similar nature carried out

☒ Yes

☐ No

Criterion no 12: Strong record of independent and high-quality research as demonstrated by publications, previous research and/or other activities

☒ Yes

☐ No

The team delivering the service should include, as a minimum, the following profiles:

Criterion no 13: - **Project Manager:** At least 5 years' experience in project management, including overseeing project delivery, quality control of delivered service, client orientation and conflict resolution experience in a project of a similar size

☒ Yes

☐ No

Criterion no 14: **Language quality check:** At least 2 members of the team should have native-level language skills in English or equivalent as guaranteed by a certificate or past relevant experience

☒ Yes

☐ No

Criterion no 15: **Expert in Applied Economic Analysis of Copyright Issues:** Relevant higher education degree and 3 years' professional experience in the field of applied economic analysis in the field of copyright issues

☒ Yes

☐ No

Criterion no 16 : The team delivering the service should include - **Expert in Survey Design and Implementation:** Relevant higher education degree and 3 years' professional experience in survey design and implementation

☒ Yes

☐ No

Criterion no 17: The team delivering the service should include - **Expert in data analysis:** Relevant higher education degree and 2 years' professional experience in econometrics

☒ Yes

☐ No

Criterion no 18: **Team for planning and conducting interviews or surveys:** Collectively the team should have knowledge of all languages in the EU countries covered in the study and proven experience of minimum 20 years in planning and conducting interviews or surveys.

☒ Yes

☐ No

E. Verification of award criteria mentioned in Section 2.4 of the Tender Specifications

<i>Criterion</i>	<i>Maximum number of points that can be awarded</i>	<i>Number of points awarded (Technical Score)</i>
1: Quality and relevance of the proposed methodology This criterion will assess the quality and relevance of the proposed methodology to achieve the main objectives of the study.	40	27
2: Coverage of targeted populations and copyrighted materials This criterion will assess the means by which the tenderer intends to ensure consistent coverage of the targeted populations and copyrighted materials in the Member States covered by the study.	20	14
3: Adequacy of resources and organisation of the work This criterion will assess the adequacy of human, financial and technical resources allocated to the project, including how the roles and responsibilities of the proposed team and of the economic operators (in case of joint tenders, including subcontractors if applicable) are distributed for each task. It also assesses the global allocation of time and resources to	30	19

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the project and to each task or deliverable, and whether this allocation is adequate for the work. The tender should provide details on the allocation of time and resources and the rationale behind the choice of this allocation.		
4: Quality control measures Assess the quality control system applied to the service foreseen in the tender specifications concerning the quality of the deliverables, the language quality check, and continuity of the service in case of absence of any member(s) of the team. The quality system should be detailed in the tender and specific to the tasks at hand; a generic quality system will result in a low score.	10	4
Total technical score	100	64

Justification concerning the points awarded to each criterion :

1: The offer demonstrates a recognition and understanding of the different challenges that are involved in the project.

The methodology / modelling is clear, well explained and different suggestions and limitations related to the estimation of displacement rates have been discussed. The theoretical modelling gains from directly using data on prices in the regression, and aiming for a panel approach.

However, the concrete approach suggested, although interesting and in theory promising, does not convincingly present solutions on how to deal with the estimation challenges. For example, the tenderer suggest building a panel dataset by asking about legal and illicit consumption in 2013 and in 2011 or even earlier. Although the tender mentions supplementing these “recall” answers by an actual longitudinal survey observing the same individuals over time, it is not clear if that would be undertaken at all. Moreover if it would at all be done, it would only be for the UK for budget reasons).

They propose to conduct mostly CAWI, but with some CAPI coverage (except in Sweden, where CAPI is deemed unfeasible for cost reasons). Whereas there are merits to also using CAPI for irregular internet users, so as to ensure coverage of the whole target population, there is no discussion of the implications that using different fielding strategies (with different scopes for mode biases) may introduce.

While the offer suggests to field the survey as part of a currently existing omnibus for the UK, but under custom fielding for the remaining countries of interest, there is very little discussion of possible biases thus introduced. Whilst the theoretical model relies on price data and supply side data, it is not clear whether these data can realistically be gathered. Also, there is no thorough discussion on the approach to measuring willingness to pay (besides the questions in the Ofcom survey).

The draft survey presented shows that efforts have been made to ensure that respondents have understood the questions without at the same time revealing the true aim of the survey and ensuring privacy (for honest feedback).

Moreover, the survey work seems to be very much focused on the UK and it is not

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entirely convincingly explained whether or how this could be applied to other member states. For example, it has not been explained how realistic it is to augment OECD data for Poland.

The piloting and testing before the survey are not foreseen.

Extension of the study to other Member States is not discussed.

2: All targeted populations and materials seem to be appropriately covered. However, whereas the sample sizes put forth are fairly large and stratification used seem adequate to cover the population, the offer does not envisage any stratification by types of copyrighted material usage, so as to ensure that appropriate coverage of all materials is established. As such, given that the prevalence of online consumption of copyright materials varies from one type of material to another, there is a risk that too few observations are obtained for those types of copyrighted materials which are less widely consumed online (such as books).

Moreover, it is not quite clear whether the questionnaire will be fully tested in the six Member States covered, as the only pilot mentioned in the offer is the one already conducted for OFCOM in the UK only.

3: The team is of generally high seniority and overlapping competence, diminishing risk of unavailability of team members. LECA offers a high number of senior expert hours, however, no rationale has been given behind the choices related to the organisation of work as neither the allocation of resources nor the timing of each step of the work has been explained in detail. There is no detailed information about the availability of resources to develop the survey, including in different MS/languages (unspecified who would ensure the translation of the surveys, nor detailed description of timing of developing, testing, fielding and analysis. The tender fails to demonstrate how its research would be adapted to the different national copyright contexts. The tender does not discuss how the methodology developed and tested on the 6 MS could be adapted and implemented in the remaining EU MS.

It has not been specified whether all the raw data would be made available to the Contracting Authority.

4: The offer shows good effort to ensure business continuity by involving several senior professors with overlapping competencies. However, the quality measures suggested appear fairly generic and the fact that the team is spread across time zones -which is presented as an advantage- also carries the risk that team members would find it more difficult to come together, physically or in a video or telephone conferences. The offer does not discuss the quality control measures in relation to the deliverables.

		Offer considered to be further evaluated on the basis of price	
Minimum number of points necessary for further evaluation	70	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No