

**EUROPEAN COMMISSION**  
Directorate General Internal Market and Services

RESOURCES AND COMMUNICATION

**27 NOV. 2013**

Brussels,  
MARKT/A2/ares(2013) 3779963

**GFK Belgium**  
Arnould Nobelstraat 42.  
3000 - Leuven,  
Belgium

Dear Mr Vloeberghs,

**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](mailto: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,



Authorising Officer

Contact:   
E-mail: [EC-INTMARKET-CONTRACTS@ec.europa.eu](mailto:EC-INTMARKET-CONTRACTS@ec.europa.eu)

Annex: GFK's evaluation form of tenderer.

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

**EVALUATION FORM OF TENDERER**

**Tenderer : GFK Belgium**

**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 15<sup>th</sup> (Ares(2013)3311236) and October 22<sup>nd</sup> (Ares(2013)3327299). The tenderer replied on October 22<sup>nd</sup> (Ares(2013)3311508), October 23<sup>rd</sup> (Ares(2013)3321545) and October 24<sup>th</sup> (Ares(2013)3327299).

**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

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☒ 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>
<b>1: Quality and relevance of the proposed methodology</b>  This criterion will assess the quality and relevance of the proposed methodology to achieve the main objectives of the study.	40	28
<b>2: Coverage of targeted populations and copyrighted materials</b>  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
<b>3: Adequacy of resources and organisation of the work</b>	30	21

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<p>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 the project and to each task or deliverable, and whether this allocation is adequate for the work.</p> <p>The tender should provide details on the allocation of time and resources and the rationale behind the choice of this allocation.</p>		
<p><b>4: Quality control measures</b></p> <p>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.</p>	10	8
<b>Total technical score .....</b>	100	71
<p>Justification concerning the points awarded to each criterion :</p> <p><b>1:</b> The offer is based on a solid understanding of the relevant markets (products and member states) and reveals that the tenderer understands the difficulties posed by the project. There is a good review of the legislation in the six member states, although at times language used indicates that the tenderer's knowledge of national copyright legal contexts (repeated mentions of "SNIDE", instead of "SINDE", law in Spain) and EU law (mentioning for instance a Swedish version of the IPRED, while EU Directives do not have national versions) could be improved.</p> <p>The choice of a cross-section reduced form econometric model at the level of types of copyrighted materials may be insufficient to fully control for all omitted factors (although it is aligned with a significant portion of the literature), such that the risk of biased estimations may still remain.</p> <p>The tenderer puts forth a cross-section data collection exercise, mostly CAWI, but with some CAPI coverage in countries with larger shares of the population which are irregular internet users, stratified by age groups. 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.</p> <p>The offer has a very insightful description of the empirical strategy, where the different challenges are recognized and options for addressing them are brought forward in terms of potential instrumental variables. Nevertheless, this proposal does not find a clear-cut solution for the empirical challenge of endogeneity that was already recognized in the terms of reference and admits that all the proposed instrumental variables have shortcomings.</p> <p>The offer extensively discusses different options for addressing the problem of measuring displacement rates, but the description of the approach to measure displacement rates, however, appears to be not 100% mature and would require some fine-tuning. Some</p>		

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questions remain open, e.g. whether one can assume that illegal content was always for free or only cheaper (as is e.g. the case for illegal CDs or DVDs); or how differences between member states would be dealt with in the modelling. The discussion of the second research question, the willingness to pay, however, remains very sketchy and does not make fully clear how it will be implemented. There is very little detail on the methods chosen to address this element in the study, and the options put forth are sometimes not fully consistent (for instance it is not clear whether the tenderer plans to combine open-ended and discrete choice experiments, or use only the latter, and there is no discussion of the implications of using both).

Regarding the survey itself, the proposal acknowledges that it is difficult to obtain honest answers about unauthorized online consumption of copyrighted material, but doesn't offer many alternatives of how to elicit more honest answers (besides the statement that the face-to-face interviews will use self-completion questionnaire to promote honest replies be it for CAPI or for CAWI). The sample questions in the draft questionnaire presented are clearly very embryonic and do not seem to take this aspect into account either. Whereas there is a discussion of the need to keep the respondent burden low, there is no discussion of filtering/routing/skips to be used. Likewise, there is a discussion of the challenges posed by questions relying on recall, but the draft questionnaire presented heavily relies on recalling details about behaviour during the last 6 months.

No clear steps are put forth regarding potential extension of the study to other Member States.

**2:** The coverage of the target population seems to be appropriate with fairly large sample sizes for CAWI (3500 respondents per country), with appropriate stratification by age groups (although there are some discrepancies on the size of the sample to be used for the 12-15 years old strata). Stratification by gender and region is also mentioned, but without any specifics. For the cognitive testing of the survey, but not elsewhere, there is only mention of stratifying by "pirate material usages rate". The choice to cover a part of the targeted population (irregular internet users) with CAPI is well explained and constitutes an interesting choice, but the concrete size of the sample to be used for CAPI is difficult to estimate, as there are conflicting data in this respect in different parts of the offer (the number of around 120 respondents per country in pages 61 and 46 are not fully consistent with the numbers in page 44).

While the sample sizes put forth are fairly large and 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).

**3:** The work plan is well presented, with clear allocation of resources. The timing of each step is clear, as is the division of responsibilities for each team member, including subcontractors.

The teams for the economic analysis and the survey work seem to be fairly well adjusted. However, there seems to be too little involvement of the experts in economics of copyright in the early stages of the project (particularly for the modelling and survey design). This raises the risk that the data collected through the survey may not be fully




targeted at the econometrics analysis to be done later.

The translation protocols planned are perfectly adequate. However, whereas there is a good plan for testing the survey in general, the offer fails to demonstrate how its research would be adapted to the national copyright contexts. In particular both the cognitive testing and the pilot testing are only planned to be carried out in the UK, which is not ideal given legal and cultural differences across the different countries to be covered.

The offer explicitly commits to deliver all raw data, but there is no explicit mention of the codes used in the estimation.

**4:** The offer proposes a well-designed quality management plan that will ensure quality controls throughout the process. The proposal has the merit to discuss extensively the processes and the criteria for quality review. The quality control measures and the persons responsible for implementing them are clearly identified. The offer also provides an example of concrete procedure to be followed when handling Client's complaints, what shows that the applicant is fully aware of the potential risks and discusses different ways of remedies. The quality control measures are very sophisticated, in particular with regard to fielding the survey, but also for the economic analysis, however no external quality control is included. As all tasks are attributed to at least two team members, business continuity seems to be secured.

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

Price		Financial Score	71.25
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Technical Score		Financial Score		Total score of this offer	Total score of the offer selected
71	x 70%	71.25	x 30%	71.07	74.00
	49.70		21.37		

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