



EUROPEAN COMMISSION
Directorate General Internal Market and Services

GOVERNANCE OF THE SINGLE MARKET
Analysis, impact and evaluation

Brussels, 15 November 2013

Markt.ddg1.b.2(2013)3728346

TENDER N° MARKT/2013/110/B
MINUTES OF THE EVALUATION COMMITTEE

Subject: Evaluation of the offers received in relation to the tender N°.
MARKT/2013/110/B
Estimating displacement rates of copyrighted content in the EU

The evaluation committee consisting of

ROLE	NAME	UNIT	STATUS (Official, Temp., END.)
Chairman	[REDACTED]	MARKT B2	Official
Member	[REDACTED]	MARKT B2	CA (see note below)
Member	[REDACTED]	SANCO B6	Official
Member	[REDACTED]	MARKT D3	Official
Member	[REDACTED]	MARKT B2	TA (see note below)
Member	[REDACTED]	COMP CET	TA (see note below)
Member	[REDACTED]	CNECT G1	Official
Replacing member	[REDACTED]	MARKT B2	Official

(Note: In the appointment decision these colleagues were listed as "Official", whereas their correct status is in fact either TA or CA, as listed.)

met on 6 November 2013 to decide on what recommendations to give to the Authorising Officer concerning the above contract.

The offers below were considered as admissible by the opening committee from the formal point of view, and will therefore be subject to examination:

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Offer No.	NAME OF TENDERER
1	European Economic Research Ltd (hereafter referred as Europe Economics)
2	Ecorys Nederland BV (hereafter referred as Ecorys)
3	Deloitte Consulting (hereafter referred as Deloitte)
4	GFK Belgium (hereafter referred as GFK)
5	Institut Mines Telecom (hereafter referred as IMT)
6	Law and Economics Consulting Associates Ltd (hereafter referred as LECA)
7	Bech-Bruun

Following the examination of the financial offer from **Deloitte Consulting** (offer No 3) it became apparent that the offer was for a total of 450 895€. This amount is above the maximum amount of 450 000€ stipulated in section 1.2 of the Invitation to Tender, which reads (underline added)

"1.2 VOLUME OF THE MARKET

The maximum amount for the execution of all the tasks referred to in this call for tenders is EUR 450 000 including all charges and expenses, in particular the travel and subsistence expenses. No contract offer above this amount will be considered."

In accordance with the terms laid out in the invitation to tender, since this offer is above the maximum amount for the market stipulated in invitation to tender, the offer from **Deloitte Consulting** was not considered for further evaluation.

SUPPORTING DOCUMENTS

The 6 tenderers have included the documents requested in Section 1.9 of the tender specifications:

Documents	1- Europe Economic s	2- Ecorys	4- GFK	5- IMT	6- LECA	7-Bech- Bruun
Letter of submission of tender (Annex 2 of the tender specifications) completed and signed	Y	Y	Y	Y	Y	Y
Price and Breakdown of Costs (Annex 4 of the tender specifications) completed and signed	Y	Y	Y	Y	Y	Y

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Signed Legal Entity Form with its supporting evidence	Y	Y	Y	Y	Y	Y
1) a copy of VAT registration document if applicable and if the VAT number does not appear on the document under 2)	Y	Y	Y	Y	Y	Y
2) Official document showing name, address, head office and registration number given to it by the national authorities	Y	Y	Y	Y	Y	Y
If not included with the Legal Entity Form : For legal persons, a legible copy of the notice of appointment of the persons authorised to represent the tenderer in dealings with third parties and in legal proceedings, or a copy of the publication of such appointment if the legislation which applies to the legal entity concerned requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.	Y	Y	Y	Y	Y	Y
For natural persons, where applicable, a proof of registration on a professional or trade register or any other official document showing the registration number.	NA	NA	NA	NA	NA	NA
Signed Financial Identification Form with its supporting evidence	Y	Y	Y	Y	Y	Y
<u>In case of joint offers</u> : a power of attorney signed by the authorised representatives of each of the other parties designating the company and/or the person who will represent the consortium for the signature of the contract and for all contacts with the Commission during the execution of the tasks.	NA	NA	NA	NA	NA	NA
<u>In case of subcontracting</u> : a letter of intent by each subcontractor above 10% stating its unambiguous undertaking to collaborate with the tenderer if he wins the contract and the extent of the resources that it will put at the tenderer's disposal for the performance of the contract.	Y	Y	Y	Y	Y	Y

Y : document has been enclosed.

N : document has not been enclosed.

NA : not applicable.

EXAMINATION OF CASES FOR EXCLUSION

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The results of this first analysis are presented in the following consolidated table (details included in the evaluation forms per tenderer):

Criteria	1- Europe Economics	2- Ecorys	4- GFK	5- IMT	6- LECA	7- Bech-Bruun
Is bankrupt or being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations	Y	Y	Y	Y	Y	Y
Has been convicted of an offence concerning his professional conduct by a judgment which has the force of res judicata	Y	Y	Y	Y	Y	Y
Has been guilty of grave professional misconduct proven by any means which the contracting authority can justify.	Y	Y	Y	Y	Y	Y
Has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country of the contracting authority or those of the country where the contract is to be performed.	Y	Y	Y	Y	Y	Y
Has been the subject of a judgment which has the force of <i>res judicata</i> for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests.	Y	Y	Y	Y	Y	Y
Following another procurement procedure or grant award procedure financed by the Community budget, has been declared to be in serious breach of contract for failure to comply with his contractual obligations	Y	Y	Y	Y	Y	Y
Is subject to a conflict of interest	Y	Y	Y	Y	Y	Y

Y : Tenderer can be accepted.

N :Tenderer can not be accepted.

NA : not applicable.

The tenderers have included Annex 3: Declaration on honour requested in Section 2.2 of the tender specifications. The evidence will be requested to the winning tenderer within a deadline stipulated by the Contracting Authority and prior to signature of the contract.

	1- Europe Economics	2- Ecorys	4- GFK	5- IMT	6- LECA	7- Bech-Bruun
Tenderer	Y	Y	Y	Y	Y	Y

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Sub-contractors	Y	Y	Y	Y	Y	Y
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Y : documents have been enclosed.

N : documents have not been enclosed.

NA : not applicable.

EVALUATION OF THE ADMISSIBLE OFFERS IN THE LIGHT OF THE SELECTION CRITERIA

During the meeting of the Evaluation Committee held on November 6th, the 6 offers received were discussed in the light of the selection criteria set out in the tender specifications (Section 2.3) accompanying the invitation to tender.

The results of this analysis are presented in the following consolidated results (details included in the evaluation forms per tenderer):

CRITERIA- ECONOMIC AND FINANCIAL CAPACITY	1- Europe Economics	2- Ecorys	4- GFK	5- IMT	6- LECA	7- Bech-Bruun
Tenderers have provided sufficient information to satisfy the Contracting Authority of their financial standing and that they and any subcontractors do have the necessary resources and financial means to carry out the work that is subject of the tender.	Y	Y	Y	Y	Y	Y

Y : criterion has been met.

N : criterion has not been met.

NA : not applicable.

The tenderers have not included the documents requested in Section 2.3.1 of the tender specifications:

1- Europe Economics	2- Ecorys	4- GFK	5- IMT	6- LECA	7- Bech-Bruun
Y	Y	Y	Y	Y	Y

Y : documents have been enclosed.

N : documents have not been enclosed.

NA : not applicable.

No.	CRITERIA-TECHNICAL AND PROFESSIONAL CAPACITY	1- Europe Economics	2- Ecorys	4- GFK	5- IMT	6- LECA	7- Bech-Bruun
a. Criteria relating to tenderers							
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	Y	Y	Y	Y	Y	Y

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	in the last three years).						
2	Tenderer must prove experience of working in the languages needed to field surveys in the EU countries covered by the study.	Y	Y	Y	Y	Y	Y
3	Tenderer must prove capacity to draft reports in English.	Y	Y	Y	Y	Y	Y
4	Tenderer must prove experience of fielding surveys in the EU countries covered by the study.	Y	Y	Y	Y	Y	Y
5	Tenderer must prove experience in survey techniques, data collection, statistical analyses and drafting reports and recommendations.	Y	Y	Y	Y	Y	Y
b. Criteria relating to team delivering the service							
The team proposed by the tenderer shall possess the following combination of qualifications:							
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.	Y	Y	Y	Y	Y	Y
7	Knowledge and understanding of welfare economics and economic valuation techniques, as demonstrated by relevant studies or other similar activities.	Y	Y	Y	Y	Y	Y
8	Experience and expertise in designing questionnaires, planning and conducting interviews, surveys and market research, proven by previous projects.	Y	Y	Y	Y	Y	Y
9	Expertise and capacity to collect and process statistical information and to apply econometric methods required for data analysis as demonstrated by relevant research.	Y	Y	Y	Y	Y	Y
10	Capacity to include different Member States in the analysis taking into account the different institutional features and language regimes.	Y	Y	Y	Y	Y	Y
11	Ability to carry out projects of this scale and scope, proven by previous projects of similar nature carried out.	Y	Y	Y	Y	Y	Y
12	Strong record of independent and high-quality research as demonstrated by publications, previous research and/or other activities.	Y	Y	Y	Y	Y	Y
The team delivering the service should include, as a minimum, the following profiles:							
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.	Y	Y	Y	Y	Y	N

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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.	Y	Y	Y	Y	Y	Y
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.	Y	Y	Y	Y	Y	Y
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.	Y	Y	Y	Y	Y	Y
17	The team delivering the service should include - Expert in data analysis: Relevant higher education degree and 2 years' professional experience in econometrics.	Y	Y	Y	Y	Y	Y
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.	Y	Y	Y	Y	Y	Y

Y : criterion has been met.

N : criterion has not been met.

NA : not applicable.

The tenderers have/have not included the documents requested in Section 2.3.2 of the tender specifications:

1- Europe Economics	2- Ecorys	4- GFK	5- IMT	6- LECA	7- Bech-Bruun
Y	Y	Y	Y	Y	Y

Y : documents have been enclosed.

N : documents have not been enclosed.

NA : not applicable.

One offer (Bech-Bruun) was considered to be non compliant with the selection criteria, because all the applicable criteria have not been met. The justifications for not compliance are detailed in the evaluation forms per tenderer.

The 5 other offers were considered to be compliant with all the applicable selection criteria, and could therefore be analysed in the light of the award criteria.

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EVALUATION OF THE SELECTED OFFERS IN THE LIGHT OF THE AWARD CRITERIA

The evaluation committee proceeded with an assessment of the 5 above-mentioned tenders in the light of the award criteria set out in the tender specifications (Section 2.4) accompanying the invitation to tender.

The results of this analysis are presented in the following consolidated tables.

TECHNICAL SCORE (QUALITY):

	Criteria	Max. number of points	1- Europe Economics	2- Ecorys	4- GFK	5- IMT	6- LECA
1	Quality and relevance of the proposed methodology	40	25	28	28	19	27
2	Coverage of targeted populations and copyrighted materials	20	13	18	14	9	14
3	Adequacy of resources and organisation of the work	30	19	22	21	12	19
4	Quality control measures	10	6	6	8	1	4
	TOTAL SCORE	100	63	74	71	41	64

The details of each evaluation are shown in the evaluation forms per tenderer in annex.

The evaluation committee considered further only those tenders that have obtained at least a technical score of 70 points.

FINANCIAL SCORE (PRICE):

The evaluation committee proceed with the financial comparison of the tenders retained for further consideration according to the following procedure.

The retained tender with the lowest total price received a financial score of 74 points. The other retained tenders were awarded points by means of the following formula:

Financial score = (lowest total price/total price of the tender being considered) x (maximum score received for the technical quality award criteria).

	2- Ecorys	4- GFK
Price	369,871.00€	384,134.00€
Score	74,00	71,25

The most economically advantageous tender was established by means of the computation of a final score according to the following formula:

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Final score = (Technical Score x 70%) + (Financial Score x 30%).

Total Score:

<i>Offer</i>	<i>Technical Score</i>		<i>Financial Score</i>		<i>Total Score</i>
2- Ecorys	74	x 70%	74	x 30%	74.00
		51.80		22.20	
4- GFK	71	x 70%	71.25	x 30%	71.07
		49.70		21.37	

The details of each evaluation are included in the *evaluation forms in annex*.

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RECOMMENDATION TO THE AUTHORISING OFFICER

The evaluation committee decided in favour of the Ecorys Nederland BV proposal, which was ranked the highest in the light of the quality award criteria, as well as offered the best relation quality-price (best value for money).

The evaluation committee recommends that the authorising officer signs the corresponding decision to award the contract to:

Ecorys Nederland BV

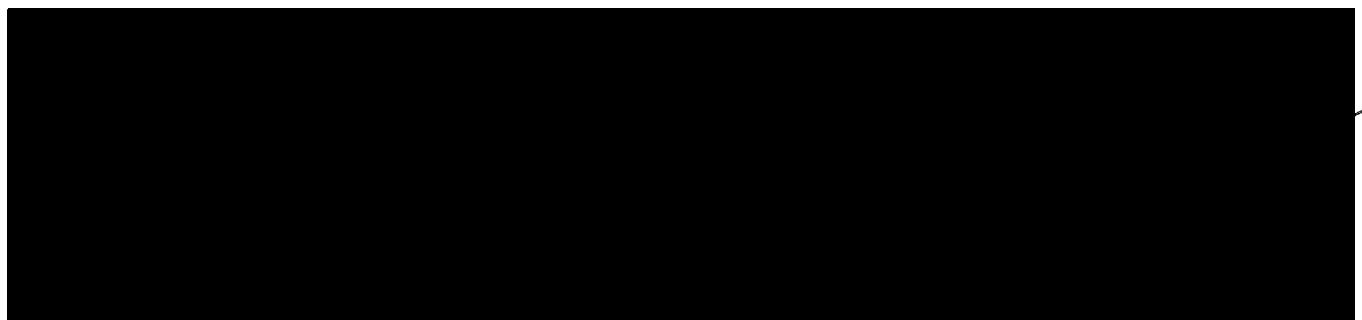
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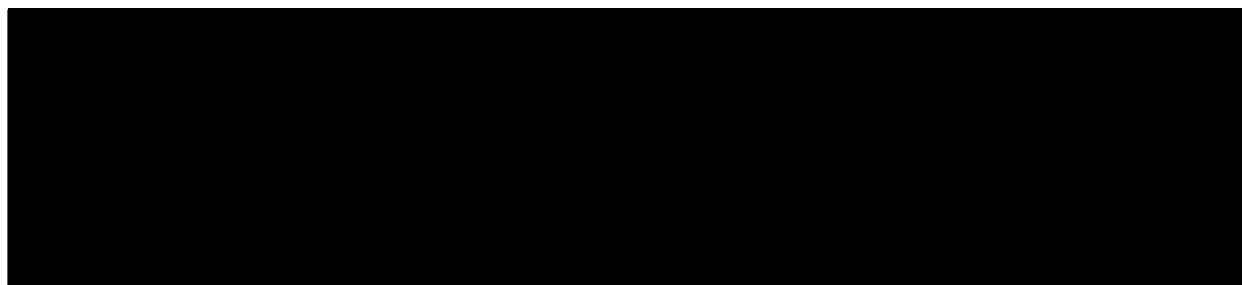
The Netherlands

for

Estimating displacement rates of copyrighted content in the EU (MARKT/2013/110/B)

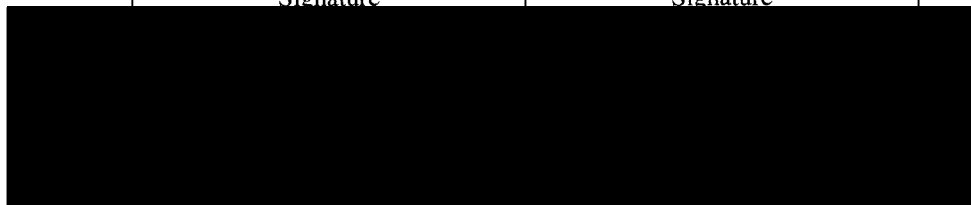


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Annex: evaluation forms per tenderer.

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

EVALUATION FORM OF TENDERER

Tenderer : *Europe Economics*

Date offer: 30/09/2013

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

File complete:

☒ Yes

☐ No

Request for additional information were sent on October 15th (Ares(2013)3313509). The tenderer replied on October 22nd (Ares(2013)3313542).

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

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☒ 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

Criterion	Maximum number of points that can be awarded	Number of points awarded (Technical Score)
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	25
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	13
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	30	19

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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. 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	6
Total technical score	100	63

Justification concerning the points awarded to each criterion :

1: The offer outlines the empirical challenges that are involved in the project in a clear way. Different elements in the methodology are discussed, with a reasoned assessment of several alternative options which could be used for tackling the measurement of displacement rates and estimating of willingness to pay.

The offer proposes to collect data cross-sectionally and estimating the results with a reduced form econometric model at the level of types of copyrighted materials. This is in accordance with several academic papers. When explaining the econometric approach taken, the offer discusses how difficult it is to find instrumental variables in this project, and lays-out the approach used to address this challenge. However the overall econometric approach may not be sufficient to control for all omitted factors and fully exclude the risk of biased estimations.

The data collection will be 100% CAWI, with sample stratification by age, gender and income.

One important shortcoming of the offer is that it does not explicitly state how it plans to address differences among member states. The methodology only discusses in very general terms the challenges posed by covering different countries in the analysis, but does not clearly address the need to account for national differences in the copyright context faced by the respondents. The offer does not convey an understand of the differences across copyright legal frameworks in different Member States to be covered. There is no explicit mention in the work plan of any concrete steps to account for national differences at all levels (consumers, legal framework, and suppliers) in the survey design.

Regarding the draft questionnaire in the offer, there is a clear understanding of the need to limit the burden on the respondents, but no particular attention is paid in that respect to the particular needs of younger respondents. Also, while there is a good discussion of the need to ensure that respondents understand the questions and promote honest replies, some of the questions in the draft questionnaire may not be the most appropriate to that end. For example, as prices for copyright materials, especially concerts, may differ considerably between top acts and local performers, further clarity on the characteristics of the material offered for consideration in the reply would be helpful in that regard.

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Notwithstanding the need to avoid unreliable recall efforts, the fact that the questionnaire only refers to respondents' activities during the last month, could potentially prove risky due to seasonality which is not addressed in the proposal.

It is positive that the work plan includes an assessment on how the study might be extended to other Member States.

2: The sample size (1000 respondents per country) combined with gender, age income stratification seems at first view barely enough to allow for acceptable error levels in a survey of the general internet using population. However, given the subject matter of the study, there is a high likelihood that only a small fraction of respondents (maybe 10-20%) will actually have used (or be willing to admit having used) illegal copyrighted materials online, such that there is serious risk that not enough variation will be observed in the sample to allow for robust analysis. Furthermore, the offer does not clearly envisage any stratification also 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 an extra risk that too few observations are obtained for those types of copyrighted materials which are less widely consumed online (such as books).

3: The broad roles of team member, including subcontractors are clear, as is the timing of each step. The resources made available and the organisation of the work seem to be sufficient to guarantee the execution of the tasks in a timely manner. Nonetheless, the allocation of resources could have been further detailed in the offer since it is only provided for the part of the work to be done by Europe Economics and not detailed for Accent. Moreover, few members of the team demonstrate experience in dealing with economics/regulation of copyright, with little redundancy/overlapping in expertise in this area.

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. It is also not clear from the offer what is the approach to be followed and which specific resources will be devoted to ensuring that the survey instrument will be fully adjusted to the specific copyright contexts of the different countries to be covered. Of particular concern is that the cognitive testing is only planned to be carried out in the UK, which is a serious limitation, given the legal and cultural differences across the different countries to be covered.

Whereas a significant proportion of working days (more than 10%) are planned for literature review, there isn't any indication that this work would also aim at covering the need to ensure that the survey instrument will be fully adjusted to the specific copyright contexts of the different countries to be covered.

The offer is also not explicit about delivering all raw data or the codes used in the estimation.

4: The quality control measures proposed in the offer are rather generic. The offer covers the selection of company staff and ex-post control, but nothing about mitigating the risks in the execution of the specific work at hand. In addition, there appears to be no specific

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provisions to assure business continuity in case of contingency and no external quality control.			
		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

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

EVALUATION FORM OF TENDERER

Tenderer : *Ecorys Nederland BV*

Date offer: 23/09/2013

F. 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)3311606), October 17th (Ares(2013)3286213) and October 22nd (Ares(2013)3312988). The tenderer replied on October 17th (Ares(2013)3286213) and October 22nd (Ares(2013)3311690) and Ares(2013)3312988).

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

☒ Accepted

☐ Rejected

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

☒ Accepted

☐ Rejected

I. 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

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- Signature: MGN
- Initials: SB

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

J. 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	28
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	18
3: Adequacy of resources and organisation of the work	30	22

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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.</p> <p>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>4: Quality control measures</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	6
Total technical score	100	74

Justification concerning the points awarded to each criterion :

I: The offer demonstrates recognition and very good understanding of the different challenges that are involved in the project. The offer presents a detailed methodology which is extensively discussed and different options for addressing the problem of measuring displacement rates are examined and justified.

The main choices made (cross-section data collection using reduced form econometric model at the level of types of copyrighted materials) are consistent with the choices most commonly made in the literature, although they are arguably not sufficient to completely control for all omitted factors and eliminate the risk of biased estimations.

The proposal discusses the econometric modelling chosen, including the difficulty in identifying appropriate instrumental variables for the exercise and the concrete solutions planned to explore in his regard.

They propose to conduct a 100% CAWI cross-section data collection exercise, with large sample sizes (5000 respondents per country), and very detailed stratification, also by types of copyrighted material usage.

The draft questionnaire proposed shows that there is a very good understanding of many of the difficulties in designing an appropriate questionnaire, in particular involving truthful replies and addressing recall issues. Solutions proposed aim at effectively addressing these difficulties (e.g. questions identifying potentially inconsistent answers, focus of willingness to pay around last consumption event). The wording used in some questions in the draft questionnaire is at times ambiguous (e.g. 'file-sharing is safe': what would 'safe' mean in this context? Safe in a technical sense or legally, i.e. no risk of enforcement?) While the draft questionnaire appears to be too long, there is a clear understanding that in the final questionnaire the burden on the respondent will have to be limited. It is also very good that it is planned to develop a shorter questionnaire for younger respondents. The fielding strategy is described in details and demonstrates the

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ability of the tenderer and the subcontractor to effectively carry out a representative survey to estimate displacement rates for all types of content. Different methodological challenges are spelled out in detail and workable solutions are proposed to each of them.

The offer also adopts appropriate methods to elicit willingness to pay (using conjoint analysis) and reveals a good understanding of the care needed to incorporate it in the survey. The choice of basing willingness to pay estimates around the last transaction is an honest solution to address recall issues.

The offer recognises the complexity of the topic and variations across the different countries to be covered, whilst being sometimes imprecise about the legal environment with regard to Internet piracy across all Member States to be covered (for instance HADOPI has in fact not been revoked), the offer includes in the work plan some steps to mitigate at least certain of those shortcomings (interviewing national authorities and content providers) to inform on the survey design.

It is positive that the work plan includes a final comparison of the results with literature, but no clear steps are put forth regarding potential extension of the study to other Member States.

The methods proposed to test the survey are very good, with extensive country-specific pre-field testing and piloting planned.

2: The offer has excellent coverage of both population (with stratification on gender and age) and copyrighted materials usage. This is obtained through large sample sizes (5000 respondents per country) and particular care to ensure that an appropriate oversampling of respondents using some types of copyrighted material allows for sufficient coverage of all copyrighted materials (with at least 400 respondents per country downloading books and videogames).

3: The work plan is well laid out in the offer and appears sufficient to guarantee the execution of the tasks in a timely manner. The allocation of resources, the timing of each step, as well as division of responsibilities for each team member, including subcontractors is clear and explained in very detailed terms.

However, few members of the team demonstrate experience in dealing with economics/regulation of copyright, with little redundancy/overlapping in expertise in this area. Whereas it is positive that the work plan includes specific steps to ensure that the survey instrument will be fully adjusted to the specific copyright contexts of the different countries to be covered (including offer specifically identifying members of the team who will help in that regard), some of the measures may be insufficient (for example one interview with an official in a national authority may not adequately cover sufficient detail to regarding variations in regulation for the purpose of the study), and other means could also be used (for example desk review of existing rules).

The offer explicitly commits to deliver all raw data and codes used in the estimation.

4: The offer presents a well-designed and comprehensive quality control and assurance plan with regard to the conduct of the survey and of the final deliverables. The different elements of the quality assurance process are extensively discussed from a procedural point of view and sound convincing. The persons responsible are clearly identified. The

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appointment of a highly experienced economist, not otherwise involved with the project, for the role of Quality Assurant Expert, who will monitor the work at all stages and whose green light is needed before deliverables are sent to DG MARKT adds value with regard to additional reflection on the appropriateness of methodology and its implementation. Language check of all deliverables is also ensured. The tenderer pays particular attention to putting forward robust mechanisms ensuring the quality control of data collection.

Business continuity has been ensured with a potential back-up team identified and described. However, there appears to be no specific provisions to assure business continuity in case the expert in the field of copyright economics should become unavailable. This could be problematic, especially in the design stage of the project.

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

Price	369.871,00 €	Financial Score	74.00
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Technical Score		Financial Score		Total score of this offer	Total score of the offer selected
74	x 70%	74	x 30%	74.00	74.00
	51.80		22.20		

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

EVALUATION FORM OF TENDERER

Tenderer : *Deloitte Consulting*

Date offer: 30/09/2013

Following the examination of the financial offer from *Deloitte Consulting* (offer No 3) it became apparent that the offer was for a total of 450 895€. This amount is above the maximum amount of 450 000€ stipulated in section 1.2 of the Invitation to Tender, which reads (underline added)

"1.2 VOLUME OF THE MARKET

The maximum amount for the execution of all the tasks referred to in this call for tenders is EUR 450 000 including all charges and expenses, in particular the travel and subsistence expenses. No contract offer above this amount will be considered."

In accordance with the terms laid out in the invitation to tender, since this offer is above the maximum amount for the market stipulated in invitation to tender, the offer was not considered for further evaluation.

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

Handwritten notes and signatures on the right margin, including "DAN", "3.0.", and "SR".

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

Handwritten notes and signatures on the right margin, including "DAN", "H", "J.N.", "js", "1747", and "SB".

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	28
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	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.</p> <p>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>4: Quality control measures</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
<p>Total technical score</p>	100	71

Justification concerning the points awarded to each criterion :

1: 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.

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.

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.

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.

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

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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.

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

Price	384.134,00 €	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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CALL FOR TENDERS MARKT/ MARKT/2013/110/B

EVALUATION FORM OF TENDERER

Tenderer : *Institut Mines Telecom*

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)3310573). The tenderer replied on October 22nd (Ares(2013)3310552), October 24th (Ares(2013)3330958) and October 31st (Ares(2013)3390248).

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

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☒ 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	19
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	9
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	30	12

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. 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	1
Total technical score	100	41

Justification concerning the points awarded to each criterion :

1: The offer demonstrates a recognition and understanding of some of the challenges that are involved in the project. The offer examines and justifies different options for addressing the problem of measuring displacement rates focusing on the estimation modelling.

The offer presents interesting theoretical and methodological discussion with the insightful idea to differentiate piracy on popular (hits) and less popular song, potentially leading to considerable difference in the consumers' willingness to pay.

Although the methodological choices made are rather well presented, the offer does not show that the complexity and the challenges embedded in the offer are thoroughly taken into account and discusses the limits of its approach only superficially. The methodology does not demonstrate a proper understanding of the copyright legal framework in the different Member States concerned by the study, and does not discuss how it could be extended to other Member States. Moreover, it is not made clear how the methodology presented will concretely be integrated in the design of the survey, bringing uncertainty about whether the objectives of the study could actually be achieved.

Whereas the offer plans to rely on Netview data, there is no concrete information about how the Netview data would be replaced for the countries in the study that are not covered by Netview (Poland, Sweden and Spain). For these countries, it is assumed that the information can be extrapolated for these countries (3 out of 6) given the global pattern in internet piracy. Such a strong hypothesis should have been further substantiated and evidenced in the offer.

The offer provides very few details on sampling, as well as on designing and fielding of the survey. It is not evidenced how endogeneity between legal and illegal consumption will be addressed in the data collection process and insufficient information is provided on how much the survey design promotes that respondents understand the questions or give honest answers.

The offer does not give any example of possible questions to be used in the questionnaire,

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making it difficult to assess how the data to feed the modelling approach would be gathered, and almost no details on pre-field testing and piloting envisaged are mentioned (except a mention in table "Time Frame" p.13: "Test the survey in France and in Germany"). The offer fails to demonstrate how its research would be adapted to the national copyright contexts across the different countries to be covered, which is problematic particularly since testing is only envisaged in France and Germany.

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

2: Overall, the offer provides very scarce information about how the sample would be drawn to ensure adequate coverage of the targeted population. The sample sizes (1000 respondents per country, 750 illegitimate content users, 250 legitimate content users), seems just enough to allow for acceptable error levels, particularly given oversampling of illegitimate content users. Further stratification beyond gender and age, is also mentioned, but without any specifics offered. Nevertheless, the offer does not clearly envisage any stratification also 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, the offer gives almost no details on any efforts to adequately cover different means of online and off-line consumption of a given type of copyrighted product (for example music is generically mentioned, without always being clear whether it refers to downloads, streaming, physical consumption or live performances) and when it does, it gives rather limited information on the consumption mode and misses consumption modes mentioned in the terms of reference (for example, for audio-visual content, the offer does not mention physical rentals and is not clear about physical purchases).

3: Although there are some details regarding the broad distribution of responsibilities, the organisation of the work is not adequately laid-down (the only information about the organisation of work consists of a time frame) and no details are given on resources to be dedicated to each task by each team member.

There seems to be too little involvement of the experts in economics of copyright in the 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.

Although the composition of the team would indicate that the appropriate expertise and resources are available to adequately field the survey and to conduct the analysis, it is not clear from the offer that it is also the case for the survey design.

The offer is not explicit as to whether the tenderer will deliver all raw data collected and used in the analysis, or the codes used in the estimation. Moreover there is a clear statement that Netview data, which would in fact be used in the analysis, would not be released to us in the end, which is a drawback of significant importance.

4: The offer does not discuss quality control measures, except when it comes to language

checks on translations of the different language version of the survey instrument, to be done by native speakers at Nielsen.

		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

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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

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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

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

EVALUATION FORM OF TENDERER

Tenderer: *Bech-Bruun*

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)3425080), October 17th (Ares(2013)3286038), October 23rd (Ares(2013)3327822), October 24th (Ares(2013)3327637) and October 25th (Ares(2013)3369000). The tenderer replied on October 17th (Ares(2013)3286038), October 18th (Ares(2013)3312137), October 22nd (Ares(2013)3327822), October 24th (Ares(2013)3327637), October 29th (Ares(2013)3369000) and November 5th (Ares(2013)3425080).

Missing documents were all received except for the following documents for one subcontractor (Lexidale): supporting evidence for Signed Legal Entity Form; the original of the Letter of Intent; and the original, standardized (without changes in our text), completed and signed version of Annex 3 - declaration honour. A reminder for the outstanding documents was sent on November 5th with a deadline for reply of November 8th (Ares(2013)3415806). We received a holding reply on November 5th (Ares(2013)3425080), but these outstanding documents have not yet been received.

The evaluation committee decided that at this stage, this did not prevent them from continuing the evaluation in the light of the other criteria, since the documents in question could be received later, in case this tenderer would be selected for the award of the contract.

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

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☒ 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

Justification: On October 25th (Ares(2013)3369000) the European Commission requested: 1) clarifications on whom the tenderer nominated as the "Project Manager"; and 2) that for that "*Project Manager*", please provide the list of projects over the last 10 years which this person has managed (including

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overseeing project delivery, quality control of delivered service, client orientation and conflict resolution), with clear indication of the dates, size of the project (both financially and geographically) and roles played by this person.” (bold added). Both clarifications are in accordance with points laid-out in the tender specifications (pages 12 and 13, respectively).

The tenderer replied on October 29th (Ares(2013)3369000) to the effect that Ms Chagal-Feferkon is the project manager.

Based on the elements on the offer as well as the supplementary elements received by email on October 29th, it is clear that Ms Chagal-Feferkon has had no experience in managing projects of a similar size until 2009. Ms Chagal-Feferkon obtained her first degree in 2006, completed her Master in Law in 2009, and has been a Partner at Lexidale only since 2010. The submitted list of projects for which Ms Chagal-Feferkon was the manager starts only in April 2012. It is not clear when in 2010 Ms Chagal-Feferkon became a Partner at Lexidale, but even if that was in January 2010, and even if Ms Chagal-Feferkon’s experience in managing projects of a similar size had started when Ms Chagal-Feferkon became a Partner at Lexidale, that would still mean that Ms Chagal-Feferkon would only have just under 4 years’ experience managing projects of a similar size.

As such, the information submitted regarding the Project Manager leads to the conclusion that the proposed individual does not have 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 (as specified in page 12 of the tender specifications).

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

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☒ 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

Conclusion regarding technical and professional capacity and supporting documents requested in Section 2.3.2 of the Tender Specifications:

The tenderer was not compliant with all the technical and professional capacity criteria (re: criterion 13 above). The offer was therefore not analysed in the light of the award criteria.

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