

**Study "PSI: Identification of potential  
Exclusive Agreements –Austria"  
Inception Report 1.0**

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Vienna, November 20, 2009

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## **1. Introduction**

This Inception Report (the Report) is produced in accordance with the requirements set out in the tender documents and the proposal submitted (as agreed upon in the context of the Purchase Order number 30-CE-0303582/00-55).

The Report provides a detailed planning of activities, including the stages of the process of PSBs interviews and stakeholders consultation as well as a list of proposed PSI domains to be targeted. To put the entire thing into the right context, the aims of the study are also listed.

As such it serves as the guiding document for the work ahead, obviously after approval of the European Commission (EC). This will allow us to monitor progress against planning and where necessary adapt the plan (and the execution), to make sure the targets are met.

## **2. Aims of the study**

The study is to: collect relevant information from the public and private side of the Austrian PSI market (both supply and demand) on the potential existence of Exclusive Agreements (EAs) in the light of article 11 of the PSI Directive (the Directive).

To this end we will:

- identify the Information Market Domains which need to be targeted (see paragraph 3.1 below)
- undertake a survey under the main 40 Public Sector Bodies (PSBs) in the domains selected, where necessary followed up through direct contact
- consult at least 80 re-users and possibly representing organizations (Re-users) in these domains, also validating the information provided by the PSBs

- prepare a summary country report, highlighting the potential EAs identified and their nature
- provide the EC with a list of PSBs, including names of staff responsible and their contact details, which are 'suspected' to have established EAs, based on appropriate legal analysis of the agreements in place against the background of article 11 of the Directive.

### **3. Approach**

In this context, we will perform the following tasks:

- Select the relevant PSI domains
- Produce long lists of PSBs and Re-users to be contacted
- Draft templates to be used in the course of the study
- Enhance national connection and liaise with the appropriate (political) levels within the government as well as interest groups in the industry
- Contact the PSBs and Re-users in search of EAs
- Take stock of and assess the character potential EAs found
- Report the findings to the EC in the appropriate form.

Below, these tasks are described in more detail (the chart in paragraph 5 provides an overview at task and activity level).

#### **3.1. Select the relevant PSI domains**

Selecting the important PSI Domains is the first crucial step in this Study.

Doing so we have applied two criteria, being: (i) perceived economic PSI re-use potential and (ii) domains where EAs have taken place in the past, thus connecting to the work done under the MEPSIR study.

Consequently we propose to survey the following 7 PSI Domains:

Business information, like Chamber of commerce information, official business registers, patent and trademark information;

Geographic information, like address information, aerial photos, buildings, cadastral information, geodetic networks, geology, hydrographical data and topographic information;

Legal information, like decisions of national, foreign and international courts, national legislation and treaties;

Meteorological information, like climate data and models and weather forecasts;

Social data information, like various types of statistics (for instance economic, employment, health, population, public administration, social);

Transport information, like information on traffic congestion, work on roads, and public transport, and vehicle registration.

### 3.2. Produce long lists of PSBs and Re-users to be contacted

The second step – which has already been initiated – concerns the establishment of a long list of organizations to be researched and contacted, based on the approval of the domains selected. Doing so we will be available ourselves of:

- lists and leads generated through earlier work done
- repositories of contact data publicly available (like for instance the websites of the Austrian ministries or the public available address table [www.herold.at](http://www.herold.at))
- spin-off and leads from PSBs and private Re-users already contacted.

### 3.3. Draft templates to be used in the course of the study

The third step – which has also been initiated already – consists of drafting the templates needed in the course of the study. These include:

- the questionnaires and response forms to be filled out, including a fool's proof instruction how to do this
- cover letters and follow up messages to be sent out to PSBs and Re-users to be contacted
- templates for reporting on the PSBs and Re-users that have been researched *casu quo* contacted, including the contact details of relevant staff and the results thereof (also holding an assessment of any 'hits')

- a country report, aggregating the results found, detailing the statistics, the hits and the assessment of those hits.

#### 3.4. Connect and liaise with the appropriate (political) levels within the government as well as interest groups in the industry

In performing this study, we will be connecting and liaising with the appropriate (political) levels within the government as well as interest groups in the industry. Due to the earlier work done in the PSI field while writing the book on PSI, legal articles, doing cases and organizing and attending conferences, we have collected various personal contacts both on public sector side as well as PSI interest group and re-use side which we will be contacting in written or personally, as appropriate and necessary, to get "background" information on the issues of the study before and aside of the actual questionnaire to be sent out.

We have already started this procedure and had a personal meeting with someone from the chamber of commerce of Austria, had calls with people from other interest groups and have scheduled a meeting with a head of unit of the Ministry of Commerce.

#### 3.5. Contact the PSBs and Re-users in search of EAs

Subsequently, the PSBs and Re-users will be researched and approached with the questionnaires produced in step 3. Rather than using on-line questionnaires, we will send out both the cover letter and the questionnaire and the instruction in one Word document.

In terms of sequence of steps, we intend to:

- research websites of and contact the PSBs and Re-users to be targeted
- send out the questionnaires and gather the attendants" feed back
- cross check the outcomes

- where necessary reconnect to the PSBs if the feed back of the Re-users would give us reason to think that the answers provided are not correct or incomplete

Performing step a - c we will actively seek responses from the target audiences (through follow up calls if no responses are received spontaneously). This will allow us to address any problems (like having the wrong contact person or contact details) but also solve any misunderstandings on the questions posed. The last step (d) will most likely involve personal interviews.

### 3.6. Take stock of and assess the character potential EAs found

Where PSBs or Re-users report that (potential) EAs are still in place, we will request the parties concerned to provide a copy of the respective contract, allowing us to assess the character thereof, in light of Article 11 of the Directive. Where parties refuse (for whatever reason) to provide a copy, we will list this in the (draft) final report. Also, in this stage follow up interviews may be carried out where required in case more details are needed.

### 3.7. Report the findings to the EC in the appropriate form

- In week 8 we planned to hold a meeting with the EC to discuss progress. Please note that this would be during Christmas holidays (Dec. 28 to Jan. 1). We therefore suggest a meeting either before (week 7) or after (week 10 or later) christmas holidays.
- In week 3, 8 (meeting in Brussels) and 16 we will report our findings to the EC in the form of:
  - a list of organizations researched casu quo contacted, both from the PSBs and Re-users, including names of staff responsible and their contact details
  - connected thereto, a list of contracts (and, where received, a copy of the contracts concerned) which are 'suspected' to have an exclusive character, based on appropriate legal analysis of the agreements in place against the background of article 11 of the Directive

- a summary country report, highlighting the potential EAs identified and their nature.

#### **4. Deliverables**

Following this approach, the following deliverables (all in English) will be produced:

- an inception report (D1), containing a detailed planning of activities, including the domains to be targeted and the stages of the process of PSBs interviews and stakeholders consultation, to be submitted at the end of week 3 (this report).
- a draft summary country report (D2), containing a detailed description of the work carried out (as described above under section 7 of the approach), to be submitted at the end of week 14.
- the final summary country report (D3), containing a detailed description of the work carried out (as described above under section 7 of the approach), both in paper and in the electronic format and on the medium required by the EC, all to be submitted at the end of week 16.

#### **5. Detailed planning**

We foresee a planning as detailed in the chart below.



No	tasks/activities	Begin	End	Output	
1	Select the relevant PSI domains and make a detailed plan	0	2	Inception Report	
1.1	produce draft Inception Report + send to EC	0	3		
1.2	acquire feedback EC + possibly amend	3	?		
2	Produce long lists of PSBs and re-users to be contacted	0	13 (ongoing, as new leads may come in)	List of organizations to be researched and contacted	
2.1	compile own database of existing contacts	0	2		
2.2	datamine other public sources	0	5		
2.3	request feedback from appropriate levels in government and industry interest groups	1	13 (ongoing, as new leads may come in)		
2.4	request suggestions umbrella organisations + PSBs + Re-users	5	13		
3	Draft templates to be used in the course of the study	0	3	Finalized templates	
3.1	draft questionnaires, cover letters, emails + process protocol	0	3		

No	tasks/activities	Begin	End	Output	
3.2	draft template Master excel sheet for reporting	5	6		
3.3	draft template country report	12	14		
4	Liaise with (political) levels in government and industry interest groups	1	3 (but may be ongoing)	Confirmed support from appropriate political level	
4.1	set up meetings	1	6		
4.2	absolve meetings	2	10 (but maybe ongoing)		
4.3	remain in contact with DAV and other stakeholders	4	12 (but maybe ongoing)		
5	Contact the PSBs and Re-users in search of EAs	3	13 (ongoing as leads may keep coming in)	Feed Back from PSBs and Re-users	
5.1	send out batch 1 of Re-users and PSBs	3	3	cum targets PSBs	cum targets

No	tasks/activities	Begin	End	Output	
					re-users
5.2	expected feed back on questionnaires and cover letter	6	7		
5.3	possibly amend drafts and process	7	8		
5.4	send out batch 2 to rest of re-users and PSBs	8	9		
5.5	obtain feed back	11	13 (ongoing as results may keep coming in)		
6	Take stock of and assess the character potential EAs found	5	13 (ongoing as results may keep coming in)	Assessment of the character of the EAs encountered	
6.1	read contracts received	5	13 (ongoing as results may keep coming in)		

No	tasks/activities	Begin	End	Output	
6.2	assess character	5	13 ongoing as results may keep coming in		
6.3	hold eventual follow up interviews	5	13 ongoing as results may keep coming in		
7	Report to the EC	13	15	Draft and final report (D2 and D3)	
7.1	hold meeting with EC in Luxemburg	7 or 10/11	7 or 10/11	Remark: week 8 would be during Christmas holi- days	
7.2	produce draft country report and send to EC	13	13		
7.3	obtain eventual feed back EC	14	14		
7.4	address eventual comments EC and send final version to EC	15	16		

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