

TENDER SPECIFICATIONS

STUDY ON "EXPLOITING THE DIGITAL DIVIDEND"
A European approach

SMART 2008/0016

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1 CONTEXT

The switchover from analogue to digital terrestrial TV by the end of 2012¹ will free up an unprecedented amount of spectrum in Europe as a result of the superior transmission efficiency of digital technology². This spectrum is known as the “**digital dividend**”. The digital dividend is a **unique opportunity to meet the fast growing demand for wireless electronic communications services**³: it opens up sufficient spectrum for **broadcasters to significantly develop and expand their services** while at the same time ensuring that **other important social and economic uses**, such as broadband applications to overcome the “**digital divide**”⁴, have access to this valuable resource. The digital dividend therefore potentially creates a “**win/win**” **situation** for the main interested parties. The digital dividend, if properly managed, is also expected to support the i2010 initiative⁵, part of the renewed **Lisbon strategy**, which emphasises the importance of ICT in delivering growth and jobs as a major driver of innovation and productivity gains.

However, the benefits of the digital dividend can only be fully reaped if it is actually made available to the most valuable uses without pre-conditions and gradually in all Member States (although to variable extents due to national situations). In this context, the Commission adopted in November 2007 a Communication⁶ setting out a common approach to the use of the spectrum released by the digital switchover. This Communication proposes to adopt a **coordinated approach at EU level** in order to enable Member States to achieve an **optimal use of the dividend** from a combined **social, cultural and economic** perspective.

The Study will assist the Commission in identifying and assessing the options and possible scenarios to achieve the required EU coordination, taking into account the **national situations** (legacies, existing plans, etc), the **socio-economic aspects** related to the various potential uses (social, cultural and economic impact, expected demand, effect on innovation, etc), the **technical & organisational feasibility aspects** (interference mitigation, compatibility with ITU agreements, costs of adapting infrastructures, etc), the **spectrum reforms** proposed in the context of the review of the EU telecom regulatory framework, and the **political priorities/directions expressed by Member States and EU Institutions**. Eventually, the Study should recommend an **EU roadmap** for implementation to achieve the desired level of European coordination as outlined in the Commission Communication.

¹ COM(2005) 204 — Communication on “Accelerating the transition from analogue to digital broadcasting”.

² The amount of released spectrum will vary between Member States due to the different levels of intensity of use of terrestrial spectrum to deliver broadcasting contents.

³ As also recognised by the European Parliament, see EP Resolution “Towards a European policy on the radio spectrum” (14/02/2007).

⁴ COM(2006) 129 on “Bridging the Broadband Gap”.

⁵ COM(2005) 229 on “A European Information Society for growth and employment”.

⁶ COM (2007) 799 on “Reaping the full benefits of the digital dividend in Europe: A common approach to the use of the spectrum released by the digital switchover”.

In summary, the Study will constitute the most substantial input to enable the Commission to make a final detailed proposal to the European Parliament and Member States, in particular the Study will provide the required elements of the **impact assessment** supporting the main options and scenarios leading to the recommended roadmap for implementation. The Study should concentrate primarily on the UHF spectrum.

2 OBJECTIVES

Based on the context outlined in chapter 1 above, the tenderer is expected to describe in detail how they will address all the following substantive elements of the Study. These elements have been grouped into 5 categories of objectives (A to E).

A) Draw up an inventory of national situations affecting the digital dividend

This is mainly a data gathering and desk research activity aimed at providing a reliable overview of existing legacy situations in Member States and a brief overview of developments in the main markets outside Europe. This activity should cover more specifically:

- An inventory of national legacy situations, in particular the extent of use of UHF spectrum by terrestrial TV and radio in the Member States. The inventory should include an overview of the broadcasting supply situation before digitalisation and the expected situation after completion of the digital switchover process (the description should include information such as the number of public and private channels, number of free versus paying channels, number of thematic versus general channels, etc). The presentation of the results in comparative tables (in electronic format) would be useful. Other uses such as secondary uses of the UHF should also be part of the review of legacy situations (e.g. use by Professional Wireless Microphone Systems);
Note: As many Member States as possible should be covered by the inventory but it should be noted that the main objective is to be able to derive general, or regional, trends and commonalities which are relevant to define the coordinated EU approach. It is therefore not imperative that absolutely all Member States be analysed at the same level of details.
- A summary of existing national plans for the use of the digital dividend;
- A brief description of current developments regarding spectrum released by the digitalisation of broadcasting in the major regions of the world (i.e. the US, Japan and possibly other significant markets such as China) and a short development of lessons to be learned from those early experiences (also in order to facilitate some benchmarking of the EU situation).

B) Perform a socio-economic analysis to determine the potential social, cultural and economic impact of the main possible uses of the digital dividend

This activity will involve essentially socio-economic analysis work in conjunction with wide consultations of stakeholders and policy makers. It will require both macro-economic and micro-economic expertise as well as the ability to include the political and social dimension of the various issues.

This activity should include more specifically:

- A critical and independent review of available studies already published by the main sectors involved (given the number of existing sectorial studies and surveys on these various topics);
- A formal consultation of the main stakeholders (the broadcasting sector, the wireless sector, appropriate industrial sectors, consumer groups, etc), EU Institutions, and the broader public

if possible. For that purpose, the contractor will organise stakeholders' hearings (closed workshop) to perform a structured audition of the main stakeholders in view of identifying the main sectorial requirements and expected developments. The hearings should be hosted in Brussels by the Commission or jointly by the Commission and the European Parliament (to be decided and communicated to the contractor after the start of the contract). Contractor's representatives will have to be present in order to organise and lead the debates as well as to ensure the official reporting for these hearings;

- An estimate of future demand for, and expected impact of, the main potential (commercial and non commercial) uses of the digital dividend, as well as a projection of the related amount of UHF spectrum that these potential uses may represent. This task should include consultation of appropriate Member States authorities to obtain their input regarding the social, cultural and economic value of the main potential uses of the dividend, as well as on their political priorities (in principle under the format of one or several Member States' workshop(s)).

Note: The future demand and impact assessment should take into account, if applicable, the availability of alternative service delivery platforms (e.g. fixed or satellite networks) and/or alternative frequency bands (outside the UHF) to deliver the same service, as well as the evolution of marginal value of the various services when the volume of supply increases (law of diminishing return);

- A vision on how long term demand and trends may affect the exploitation of the digital dividend (e.g. the emergence of TV channels delivered over wireless and wired broadband networks, evolution in mobility, etc).

C) Investigation and "modelisation" of key exogenous constraints

The aim of this activity is essentially to establish the boundaries to the various options & scenarios regarding a coordinated EU approach (which should be identified under the next objective section, section D). The following is not an exhaustive list. It recalls some aspects which have already been raised in past investigations:

- Influence on spectrum requirements for the digital dividend of the most probable future technological scenarios regarding aspects such as the progress of broadcasting compression techniques (MPEG4/AVI, DVB-T2, etc), evolution of network structures (e.g. likelihood of a mass deployment of single frequency network architectures), antenna improvements (e.g. smart/adaptive antennas), etc;
- Interference mitigation requirements: mainly based on existing experience and more particularly on the CEPT findings under the Commission Mandates on the digital dividend⁷, regarding the possibility for various types of networks to co-exist or not in the same frequency bands, including the issue of minimising guard bands and taking advantage of any potentially underused spectrum such as the "white spaces" between broadcasting allotments;
- Assessment of the impact of International treaty (i.e. mainly existing ITU radio regulations) in particular concerning the Geneva-06 Agreement resulting from the Regional Radiocommunications Conference 2006 (RRC-06) and the outcome of the World Radiocommunications Conference 2007 (WRC-07);
- Organisational issues related to network deployment and/or restructuring, and cost/benefit analysis regarding various degrees of possible frequency re-planning/re-farming (i.a. the cost of relocating broadcasting transmitters if required);

⁷ E.g. RSCOM08-06 - Draft second Mandate to CEPT on technical considerations regarding harmonisation options for the digital dividend in the European Union (issued by the Commission on 10/04/2008, following approval by the RSC.

- Possible investment requirements: e.g. in the case of required upgrading of network infrastructures, improvement of receivers' performance, etc. This investigation may also include considerations for specific investment mechanisms such as for the fair and proper funding of spectrum re-farming expenditures (in case this type of scenario would be retained).

The tenderer will have to further elaborate the list of constraints to be addressed, and indicate on how to best address the objective described in this section.

The Study should perform a "modelisation" of the exogenous constraints identified, as requested above, in order to facilitate their inclusion in the assessment of options & scenarios to be conducted under the objective category described in the next section (section D).

D) Development and validation of options & scenarios for the EU coordinated approach

This part is the core contribution of the Study. Based on the synthesis of the previous three categories of input (national situations and plans, socio-economic impact, and exogenous constraints) and in line with the proposals for spectrum reforms made in the context of the current review of the telecom regulatory framework, it should consist in the following set of outcomes:

- Identify the main options and key features of the most beneficial EU coordinated approach(es) to be considered, and develop an appropriate range of scenarios for implementation;
- Make an assessment of the overall cost/benefit (in social, cultural and economic/innovation terms) of adopting an EU-coordinated approach (EU dimension versus independent national approaches), and carry out the required research work to identify the quantitative elements supporting its economic and social justification (internal market – economies of scale, interoperability);
- Perform an impact assessment for each of the main options and scenarios. The impact assessment should show the evaluation of cost/benefits, the compatibility/interactions with the expected outcome of the regulatory review, the risks and opportunities, and the various levels of political and regulatory feasibility.

Note: The work should include appropriate sensitivity analysis whenever underlying assumptions may have a determining influence on the outcome;

- Validate/discuss the retained options and scenarios with Member States and EU institutions (there should be between 2 and maximum 5 workshops/meetings to be organised by the contractor and hosted at the Commission's premises in Brussels. The contractor will have to bear expenses related to its staff in the implementation of this activity (see also section 4.2 below). Tenderers are invited to provide a proposal on how this activity could be best structured and implemented). This process may require performing iterations on the various proposed scenarios. Provide assistance to the Commission during preliminary political discussions with Member States and the European Parliament.

E) Final recommendation and proposed "roadmap"

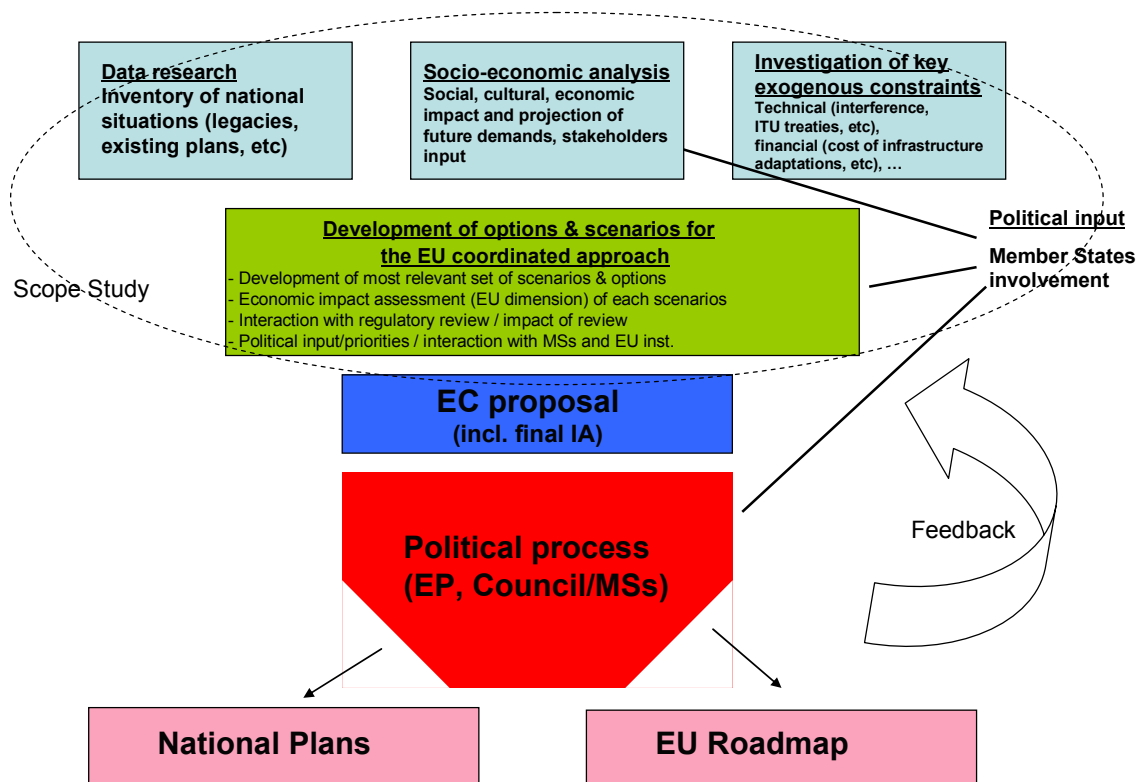
This is a step following the development and validation of possible options & scenarios for the EU coordinated approach (section D above). The objective is to provide additional details and validation of the option(s) and scenario(s) finally retained by the Commission as a result of the discussions with the European Parliament and Member States, including:

- A full description of the recommended approach (including options and any variation of scenarios if any);
- A final detailed impact assessment (socio-economic, technical, regulatory, organisational, political, etc);

- A comparative study of available EU regulatory options and instruments to provide a legal basis to the coordinated approach of the digital dividend at European level;
- A "roadmap" for implementation indicating the recommended policy process to be put in place (mainly involving Member States authorities and the EU institutions) including a realistic time table;
- A recommendation on any further technical work to be conducted in the context of the Commission Mandates to CEPT⁸ and on any requirements for further research to implement the coordinated EU approach.

The contribution of the various elements to the process can be illustrated by the diagram below.

Roadmap: digital dividend initiative



3 DURATION

Duration of the tasks must not exceed 12 months and is subject to the provisions of Art. I.2.3 of the contract.

⁸ E.g. RSCOM08-06 - Draft second Mandate to CEPT on technical considerations regarding harmonisation options for the digital dividend in the European Union (issued by the Commission on 10/04/2008, following approval by the RSC).

4 DELIVERABLES, MEETINGS AND TIMETABLE

4.1 Deliverables

The following deliverables in electronic Word and PDF format are required from the contractor:

- **Inception report**, to be delivered to the Commission's services 2 weeks after the inception meeting, specifying any additional information/amendments regarding the methodology, resources and objectives provided in the tender in accordance with the indications provided by the Commission during the inception meeting (see section 4.2 below);
- **Report on stakeholders' hearings (including analysis of results)**, to be delivered to the Commission's services maximum 4 weeks after the hearings and at the latest 16 weeks after signature of the contract by both parties;
- **Report on the Member States' workshop (including analysis of results)**, to be delivered to the Commission's services maximum 4 weeks after the workshop and at the latest 20 weeks after signature of the contract by both parties;
- **Final interim study report (including preliminary recommendations)**, to be delivered to the Commission's services 24 weeks after signature of the contract by both parties. A draft interim report should be ready for informal examination by the Commission's services 20 weeks after signature of the contract;
- **Draft final study report** to be delivered to the Commission's services 34 weeks after signature of the contract by both parties;
- **Final study report** including an executive summary and a dedicated section for the "recommendations", to be delivered to the Commission's services 40 weeks after signature of the contract by both parties. The final report shall be delivered in 20 bound copies (the Commission may decide to reduce the number of bound copies if appropriate) and include a master copy both on paper and in electronic form (Word and HTML format);
- **Technical report**, including e.g. time-sheets on man/days consumption, travel details, use of consumables, etc. This report should be provided to the Commission at the latest one week after the final public presentation meeting (see section 4.2 below).
- **Bi-monthly work status report**, are short informal reports (1 to 2 pages) to be delivered by e-mail every first and 15th of a month (except otherwise specified in agreement with the Commission's services) to inform the Commission's staff of progress, possible difficulties and any major new findings or action relevant for the regular monitoring of the project by Commission's services.

4.2 Meetings and workshops

Inception meeting

An inception meeting will be organised by the Commission's services at the Commission's premises in Brussels within 2 weeks after signature of the contract by the last contracting party. The main purpose of this meeting is to clarify and complete information included in the final offer, as well as to confirm the various milestones. The contractor will have to finalise the inception report on the basis of the outcome of the inception meeting.

Stakeholders' hearings

The contractor will organise a one-day meeting to hold structured hearings of the main stakeholders involved. These hearings take place at the Commission's premises in Brussels within 12 weeks after signature of the contract by the last contracting party. These hearings should involve the main interested sectors, i.e. the broadcasting sector, the mobile communications sector, fixed wireless operators, telecommunications equipment suppliers, operators of SAB/SAP application such as those involving PMSEs/PWMSs, and other current and potential secondary users of the UHF spectrum. For each interested sector identified, at least 3 representative companies, or organisations, must contribute to the hearings in order to provide a balanced view. National Regulators and some Members of the European Parliament involved in the review of the regulatory framework should be invited to the hearings. The meeting could be co-hosted by the European Commission and the European Parliament [to be decided in due time]. The premises will be made available by the Commission but the contractor will be responsible for the preparation of the hearings workshop, the invitations, the moderation and the reporting (stakeholders' hearings report). The contractor will carry the travel, accommodation and subsistence costs of its own staff, but not the costs related to the other participants.

Member States' workshop

A one-day workshop reserved to Member States will be organised in Brussels 16 to 18 weeks after signature of the contract by both parties. The scope of the workshop shall be consultative, mainly to obtain the views of the Member States authorities involved in spectrum management on the value and potential impact of the various possible uses of the digital dividend. The contractor should also take advantage of this meeting to discuss the current status of the decision process in Member States. The organisation of the workshop, including invitations to participants and speakers, and all related costs (booking arrangements, rental of a conference room and possible lunch/catering, and travel and subsistence expenses of contractor's own staff and up to 4 invited speakers) will be the responsibility of the contractor. The costs of travel and accommodation for other participants (Member States representatives, Commission staff, etc) will not be carried by the contractor.

Interim meeting

In addition to regular telephone, email contacts, and the bi-monthly work status reports (see 4.1.), an interim meeting will be held, during which the contractor will present the interim study report (data research, socio-economic analysis, investigation of constraints, and an initial version of the scenarios & options being studied for the preparation of the EU coordinated approach). This meeting will be held within 22 weeks after signature of the contract by the last contracting party. It will be organised by the Commission's services at the Commission's premises in Brussels. The contractor will have to finalise the interim study report on the basis of the outcome of the interim meeting.

Working meetings related to the development of the options & scenarios for the digital dividend

These meetings relate to the section D of the chapter on objectives (chapter 2) and concern the presentation, validation and assessment of the various options and scenarios involving appropriate policy makers (EU institutions and Member States), and possibly also certain stakeholders. The number of these meetings which will take place in Brussels at Commission's premises may vary between 2 or 3 to 4 or 5 (only the travel and subsistence expenses of the contractor's own staff will be borne by the contractor and the total expenses related to this activity will have to be foreseen and included in the financial bid submitted by the successful tenderer in accordance with section 4.3). The meetings will be organised jointly by the Commission and the study team. A detailed proposal on how to handle this presentation and

validation activity will have to be submitted by the tenderer. These meetings should be scheduled between the 20th and the 30th week after signature of the contract by the last contracting party.

Final meeting

A final meeting during which the contractor will present the draft final study report and recommendations to the Commission services will be held within 36 weeks after signature of the contract by the last contracting party. It will be organised by the Commission's services at the Commission's premises in Brussels. The contractor will have to modify the draft final study report to produce the final study report on the basis of the outcome of the final meeting.

Final public presentation meeting

The final study report as approved by the Commission in accordance with section 5 below will be presented by the contractor during a final presentation meeting to be held within 44 weeks after signature of the contract by the last contracting party. The contractor is expected to provide at least one senior member of staff having worked on the contract to deliver a presentation on the main findings and recommendation. This final presentation will be public and held at the Commission's premises in Brussels, and will last a maximum of a half day. The Commission will manage the invitations and local logistics for the meeting room. The contractor will be responsible for the content and the presentation itself. Travel expenses of the contractor's own staff related to this meeting will be borne by the contractor.

As a general rule, travel expenses related to the meetings and workshops listed above will be borne by the contractor for its own staff and other specific invitees (when specified above).

4.3 Timetable

Deliverable ↓	Meeting ↓	Week # →	2	4	12	12 to 16	16 to 18	16 to 20	20	22	24	34	36	40	44	45
	Inception meeting															
Inception report																
	Stakeholders' hearings															
Report on the stakeholders' hearings																
	Member States' workshop															
Report on the Member States' workshop																
Draft Interim study report																
	Interim meeting															
Final Interim study report																
Draft final study report																
	Final meeting															
Final study report																
	Final public presentation meeting															
Technical report																

5 TERMS OF APPROVAL OF REPORTS

After reception of each report included in section 4.1 above, the Commission will have up to 15 calendar days in which:

- to approve it, with or without comments or reservations;
- to reject it and request a new report.

If the Commission does not react within this period, the report shall be deemed to be approved.

Where the Commission requests a new report because the one previously submitted has been rejected, this must be submitted within 15 calendar days if not otherwise agreed. The new report shall likewise be subject to the above provisions.

PART 2: ADMINISTRATIVE DETAILS

1 ELIGIBILITY REQUIREMENTS

All the **requirements** related to the **submission and opening of the tenders** are detailed in the invitation to tender (see sections 2, 4 and 8 of the invitation to tender):

- *Address and deadline for submission of the tender*
- *Presentation of the offer and packaging*
- *Opening of the tenders*

2 ADMINISTRATIVE REQUIREMENTS

A service provider may consider submitting a tender as a single entity or decide to collaborate with other service providers to present a bid: either by submitting a **joint tender** or through **subcontracting**. Tenders may also combine both approaches.

2.1 Different ways to submit a tender

Please pay attention to options 1 to 4 below, which describe the different ways of submitting a tender, and make sure that all the documents and evidences required with respect to YOUR tender are submitted.

- Option 1:** Submission by **one tenderer: Private / Public entity / Individual**.
- Option 2:** Submission by **partners** as defined under section 2.2 below.
One must be designated as **lead partner/contractor**.
- Option 3:** Submission by **one tenderer with subcontractors** as defined under section 2.2 below
- Option 4:** Submission by **partners** (one must be designated as lead partner/contractor) **with subcontractors** as defined under section 2.2 below.

2.2 Joint Tenders and Subcontracting

2.2.1 Joint tenders

In case of a joint tender submitted by a group of tenderers, these latter will be regarded as **partners**. If awarded the contract, they will have an equal standing towards the contracting authority in the execution of the contract.

The partnership may take the form of:

- a) a **new legal entity** which will sign the contract with the Commission in case of award
or
- b) a group of partners not constituting a new legal entity, who via a **power of attorney (Annex 5)**, signed by an authorised representative of each partner, designate one of the partners as lead partner, and mandate him as lead contractor to sign the contract with the Commission in case of award.

In both cases, all partners shall be considered as tenderers and shall **assume joint and several liability towards the European Commission for the performance of the contract**.

2.2.2 Subcontracting

Subcontracting is a situation where a contract is to be established between the Commission and a service provider and where this service provider, in order to carry out the contract, enters into legal commitments with other legal entities for performing part of the tasks foreseen in the contract.

The tenderer submitting the tender, if awarded the contract, shall become the sole contractor and shall assume **full liability toward the European Commission for the performance of the contract as a whole**. The other service providers will be regarded as subcontractors.

Subcontracting is subject to the provisions of Article II.13 of the model contract annexed to the invitation.

2.3 Identification of the tenderer – List of Forms & Evidences Required

Options 1/2/3/4: Documents to be provided by the single tenderer or lead partner:

- Annex 1: Administrative identification form (filled in and signed by an authorised representative)
- Annex 2: Legal Entities form⁹ (filled in, signed by an authorised representative, and supported by relevant evidences according to the entity concerned, i.e. private/public/individual)
- Annex 3: Financial Identification form¹⁰ (filled in and signed by an authorised representative of the tenderer and his banker)
- Annex 4: Exclusion criteria form (filled in and signed by an authorised representative)
- Legible copy of the statutes of the company (for public/private entities)
- Legible copy of an official document indicating the name of the authorised representatives empowered to sign contracts on behalf of the tenderer.

Options 2 and 4: documents to be provided by each partner

- Annex 1: Administrative identification form (filled in and signed by an authorised representative)
- Annex 2: Legal Entities form¹¹ (filled in, signed by an authorised representative, and supported by relevant evidences according to the entity concerned, i.e. private/public/individual)
- Annex 4: Exclusion criteria form (filled in and signed by an authorised representative)
- Annex 5: Power of attorney (filled in and signed by an authorised representative of each partner)
- Legible copy of the statutes of the company (for public/private entities)
- Legible copy of an official document indicating the name of the authorised representatives empowered to sign contracts on behalf of the tenderer.

Options 3 and 4: Documents to be provided by each subcontractor (if the sub-contractor is an **individual external expert** not part of the tenderer's staff, he will have to provide only the letter of intent in Annex 6)

⁹ A standard template in each EU language is available at:
http://ec.europa.eu/budget/execution/legal_entities_en.htm

¹⁰ A standard template in each EU language is available at: http://ec.europa.eu/budget/execution/ftiers_en.htm

¹¹ A standard template in each EU language is available at:
http://ec.europa.eu/budget/execution/legal_entities_en.htm

- Annex 1: Administrative identification form (filled in and signed by an authorised representative)
- Annex 4: Exclusion criteria form (filled in and signed by an authorised representative)
- Annex 6: Letter of intent from each subcontractor (signed by an authorised representative) or external expert to confirm their willingness and availability to perform the tasks.

3 SIGNATURE OF THE TENDER

The signature of the tenderer's authorised representative or representatives (preferably in blue ink) on the administrative identification form (**Annex 1**) will be considered as the signature of the tender, binding the single tenderer or the group of partners to the terms included in the tender.

4 LAYOUT OF THE TENDER

All tenders must be clear, complete and consistent with all the requirements laid down in the tendering documents and **presented in 3 sections** as follows:

4.1 Administrative section

The documentary evidence required in accordance with part 2 section 2, section 3, section 5.1.3 and section 5.2 of the Tender Specifications must be included in the administrative section of the tender. **Tenders not including the necessary evidence may be rejected.**

4.2 Technical section

This section must address all the requirements laid down in Part 1 - Technical description of the tender specifications. Information included here will be used to conduct the qualitative assessment of the tenders on the basis of the technical award criteria listed in section 5.3 below.

4.3 Financial section

The price quoted must fulfil the following requirements:

- A **total** fixed price expressed **in Euro** must be included in the tender.
- The price quoted must **be firm and not subject to revision.**
- The prices must be quoted **free of all duties, taxes and other charges**, i.e. also free of VAT, as the Communities are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 (OJ L 152 of 13 July 1967). Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption.
- The price quoted shall be subject to the terms set in Article I.3 of the model contract attached.
- The price must fall within the scope of these tender specifications and be broken down into unit prices and quantities per each of the following categories:

(a) Professional fees. The daily fee and total number of man/days for each category of staff working on the contract must be specified. The tender must also present a breakdown of professional fees for each section (A. to E.) included in Part 1 section 2.

(b) Travel and subsistence expenses. In the event of travel being necessary to carry out the duties specified in the tender, travel and subsistence expenses shall be paid as indicated in the tender

(c) Other expenses (outsourced services or supplies, e.g. translation expenses, printing expenses, website development, etc.).

The total price quoted cannot exceed 500,000 euros. Tenders with a higher total price will be rejected.

5 EVALUATION OF TENDERS

The evaluation of tenders will be done in accordance with the following subsequent steps:

- The Commission verifies that the **tenderer** is not in one of the situations covered by the exclusion criteria (first step, see section 5.1 below)
- The Commission verifies that the **tenderer** has the appropriate capacities to perform the contract on the basis of the selection criteria (second step, see section 5.2 below)
- The Commission assesses the **tender** on the basis of the award criteria (third step, see section 5.3 below).

5.1 Exclusion Criteria

5.1.1. Pursuant to Article 45(2) of Council Directive 2004/18/EC and to Article 93(1) of the Financial Regulation, the Commission will exclude tenderers from participation in the procurement procedure if:

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have 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 they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) they are currently subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation.

Points (a) to (d) of the first subparagraph shall not apply in the case of purchase of supplies on particularly advantageous terms from either a supplier which is definitively winding up its business activities, or from the receivers or liquidators of a bankruptcy, through an arrangement with creditors, or through a similar procedure under national law.

For the purpose of the correct application of the above paragraph, the candidate or tenderer, whenever requested by the contracting authority, must:

- (a) where the candidate or tenderer is a legal entity, provide information on the ownership or on the management, control and power of representation of the legal entity,
- (b) where subcontracting is envisaged, certify that the subcontractor is not in one of the situations referred to in paragraph 1 of Article 93 of the Financial Regulation.

5.1.2. Pursuant to Article 45(2) of Council Directive 2004/18/EC and Article 94 of the Financial Regulation, a contract shall not be awarded to candidates or tenderers who, during the procurement procedure for this contract:

- (a) are subject to a conflict of interest;
- (b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply this information;
- (c) find themselves in one of the situations of exclusion, referred to in Article 93(1) of the Financial Regulation, for this procurement procedure.

5.1.3. Tenderers – including sub-contractors if any - shall provide a declaration on their honour (Annex 4), duly signed and dated, stating that they are not in one of the situations referred to in Article 93(1) or 94 of the Financial Regulation. The tenderers must undertake to inform the Commission, without delay, of any changes with regard to these situations after the date of submission of the tender.

5.1.4. In addition, for contracts of a value higher than EUR 133.000, ONLY the tenderer to whom the contract is to be awarded shall confirm the declaration by providing, within a time-limit defined by the contracting authority and preceding the signature of the contract, the following evidences (if the tender is proposed by partners, these evidences must be submitted by each partner):

- 1) The contracting authority shall accept as satisfactory evidence that the candidate or tenderer to whom the contract is to be awarded is not in one of the situations described in point (a), (b) or (e) of Article 93(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, an equivalent document, **issued less than 12 months before the date of the letter informing of the contract award** by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) of Article 93(1) of the Financial Regulation, a certificate by the competent authority of the State concerned, **issued less than 12 months before the date of the letter informing of the contract award**.
- 2) Where the document or certificate referred to in the first subparagraph is not issued in the country concerned and for the other cases of exclusion referred to in Article 93(1) of the Financial Regulation, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

Depending on the national legislation of the country in which the tenderer is established, the documents referred to in paragraphs 1) and 2) shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

In case of doubt on the declaration on the honour provided by the subcontractor(s) in accordance with the indications of point 5.1.3 above, the contracting authority shall request the evidence referred to in points 1) and 2) above from the subcontractor(s).

5.1.5. Administrative and financial penalties

1. **By returning the form in Annex 4 duly signed and dated**, tenderers confirm that they have been notified of the following points: Each institution has a central database containing information on tenderers who have been in one of the situations described under 5.1.1 and 5.1.2 above. The sole purpose of this database is to ensure, in compliance with Community rules on the processing of personal data, that the above-mentioned cases of exclusion are applied correctly. Each institution has access to the databases of the other institutions.
2. In accordance with Article 96 of the Financial Regulation the contracting authority may impose administrative or financial penalties on the following:
 - (a) candidates or tenderers in the cases referred to in point (b) of Article 94 of the Financial Regulation;
 - (b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget.

In all cases, however, the contracting authority must first give the person concerned an opportunity to present his observations.

3. The penalties referred to in paragraph 2 shall be proportionate to the importance of the contract and the seriousness of the misconduct, and may consist in:
 - (a) exclusion of the candidate or tenderer or contractor from the contracts and grants financed by the Community budget for a maximum period of ten years; and/or
 - (b) the payment of financial penalties by the candidate or tenderer or contractor up to the value of the contract in question.
4. In accordance with Article 133 of the Regulation laying down the rules for the implementation of the Financial Regulation, the cases referred to in point e) of 5.1.1. above shall be the following:
 - (a) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests drawn up by Council Act of 26 July 1995 (OJ C 316, 27.11.1995, p. 48);
 - (b) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997 (OJ C 195, 25.6.1997, p. 1);
 - (c) cases of involvement in a criminal organisation, as defined in Article 2(1) of Joint Action 98/733/JHA of the Council (OJ L 351, 29.12.1998, p. 1);
 - (d) cases of money laundering as defined in Article 1 of Council Directive 91/308/EEC (OJ L 166 of 28 June 1991, p. 77).
5. Pursuant to article 133a of the Regulation laying down the rules for the implementation of the Financial Regulation, in order to determine duration of exclusion and to ensure compliance with the principle of proportionality, the institution responsible shall take into account in particular the seriousness of the facts, including their impact on the Communities' financial interests and image and the time which has elapsed, the duration and recurrence of the offence, the intention or degree of negligence of the entity concerned and the measures taken by the entity concerned to remedy the situation.

When determining the period of exclusion, the institution responsible shall give the candidate or tenderer concerned the opportunity to express their views.

Where the duration of the period of exclusion is determined, in accordance with the applicable law, by the authorities or bodies referred to in Article 95(2) of the Financial

Regulation, the Commission shall apply this duration up to the maximum duration laid down in Article 93(3) of the Financial Regulation.

6. The period referred to in Article 93(3) of the Financial Regulation is set at a maximum of five years, calculated from the following dates:
 - (a) from the date of the judgment having the force of *res judicata* in the cases referred to in points (b) and (e) of Article 93(1) of the Financial Regulation;
 - (b) from the date on which the infringement is committed or, in the case of continuing or repeated infringements, the date on which the infringement ceases, in the cases referred to in Article 93(1)(c) of the Financial Regulation.

That period of exclusion may be extended to ten years in the event of a repeated offence within five years of the date referred to in points (a) and (b), subject to paragraph 5.

7. Candidates and tenderers shall be excluded from a procurement and grant procedure as long as they are in one of the situations referred to in points (a) and (d) of Article 93(1) of the Financial Regulation.
8. Pursuant to article 134b of the Regulation laying down the rules for the implementation of the Financial Regulation, without prejudice to the application of penalties laid down in the contract, candidates or tenderers and contractors who have made false declarations, have made substantial errors or committed irregularities or fraud, or have been found in serious breach of their contractual obligations may be excluded from all contracts and grants financed by the Community budget for a maximum of five years from the date on which the infringement is established as confirmed following an adversarial procedure with the contractor.

That period may be extended to ten years in the event of a repeated offence within five years of the date referred to in the first subparagraph.

9. Tenderers or candidates who have made false declarations, have committed substantial errors, irregularities or fraud, may also be subject to financial penalties representing 2% to 10% of the total estimated value of the contract being awarded.

Contractors who have been found in serious breach of their contractual obligations may be subject to financial penalties representing 2% to 10% of the total value of the contract in question.

That rate may be increased to 4% to 20% in the event of a repeat infringement within five years of the date referred to in the first subparagraph of paragraph 8.

The institution shall determine the administrative or financial penalties taking into account in particular the elements referred to in Article 133a(1) of the Regulation laying down the rules for the implementation of the Financial Regulation.

5.2 Selection criteria

The following selection criteria will be used to select the tenderers. If the tender is submitted by partners (as defined under section 2.2 above) these selection criteria must be fulfilled by each partner.

Documentary evidence of the tenderers' claims in respect of the selection criteria is required as indicated below. The tender should also include any other document that the tenderer(s) wish(es) to include by way of clarification.

5.2.1 Professional information

Criterion:	Enrolment in one of the professional or trade registers in the country of establishment
Documentary evidence:	Declaration or certificate of enrolment in one of the professional or trade registers in the country of establishment

5.2.2 Financial and economic capacity

Criterion:	Sufficient financial and economic standing
Documentary evidence:	Annual income statements and balance sheets or extracts there from for the last 3 financial years Statement of overall turnover and turnover from contracts in the field of telecommunications studies in the last three financial years.

If, for some exceptional reason which the Commission considers justified, a tenderer is unable to provide one or other of the above documents, he or she may prove his or her economic and financial capacity by any other document which the Commission considers appropriate. In any case, the Commission must at least be notified of the exceptional reason and its justification in the tender. The Commission reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

5.2.3 Technical background

Criterion:	Relevant expertise of the tenderer and other applicants, including subcontractors if any, acquired in the last three years, in the field of telecommunications, and more specifically regarding economic and technical aspects of the wireless communications domain.
Documentary evidence:	List of contracts in the field of telecommunications performed in the past three years, or currently being performed, with their respective values

Criterion:	Experience, technical knowledge and credibility of proposed team
Documentary evidence:	Concise but informative curricula vitae of team members, demonstrating professional experience in the field of telecommunications and/or socio-economic studies of at least 3 years

Criterion:	Management capability
Documentary evidence:	List of contracts of a value of at least 100,000 euros performed in the last 3 years

5.3 Award criteria

5.3.1 Technical award criteria

The tenders will be qualitatively assessed on the basis of the technical award criteria and respective scores listed below:

<u>Technical award criterion</u>	<u>Maximum score/weighting</u>	<u>Threshold</u>
1. Understanding of the tasks required <ul style="list-style-type: none"> • Understanding of the current environment with respect to the management of radio spectrum including economic, regulatory and technical aspects. • Awareness of political sensitivities related to the deployment of the digital dividend and the related EU proposal for the review of the telecom regulatory framework. (All the sub-criteria above are of equal relative importance)	30	20
2. Technical quality of the tender <ul style="list-style-type: none"> • Demonstrated ability to address multi-dimensional issues combining economic/social aspects, political/regulatory aspects as well as technical/organisation aspects. • Degree to which all relevant issues are covered • Methodology to collect and analyse data / Soundness and appropriateness of the proposed analysis tools and data gathering techniques • Clarity of proposed deliverables (All the sub-criteria above are of equal relative importance)	50	40
3. Management <ul style="list-style-type: none"> • Realistic project plan and resource/time allocation • Sound and realistic allocation of financial and human resources, including allocation of expertise (especially regarding the economic work). • Ability to deploy appropriate resources to address peak activity periods (a minimum of 5 or 6 consultants covering several areas of expertise should be active during the most intensive periods of activities) (All the sub-criteria above are of equal relative importance)	20	15
TOTAL	100	75

Minimum score per criterion (threshold):

Tenders scoring less than the threshold indicated above for each technical award criterion will be considered of insufficient quality and rejected.

Minimum total score (threshold):

Tenders with a total score of less than 75 points at the end of the evaluation process will be considered of insufficient quality and rejected.

5.3.2 Price

The price quoted must comply with the requirements laid down in Part 2 - section 4.3 above.

6 AWARD OF THE CONTRACT

The Contract shall be awarded to the tender offering the best value for money, which will be the one with the best quality/price ratio, taking into account the award criteria listed in section 5.3.

The qualitative score obtained for the technical award criteria will be divided by the total price of the tender.

7 PAYMENT AND STANDARD CONTRACT

- Payments under the contract shall be made in accordance with articles I.4 and II.4 of the model contract attached.
- Depending on the financial solidity of the tenderer, payment of the pre-financing may be made conditional upon the furnishing by the Contractor of a financial guarantee.
- In any case, a financial guarantee shall be required for the payment of pre-financing exceeding EUR 150.000. The guarantee shall be supplied by a bank or an authorised financial institution. The guarantee shall be denominated in Euro. The guarantee shall be released as and when the pre-financing is deducted from interim payments or payments of balances to the contractor in accordance with the terms of the contract.

8 VALIDITY OF THE TENDER

Period of validity of the tender shall be nine months from the closing date for submission of the tender given above.

9 ADDITIONAL PROVISIONS

- Changes to tenders will be accepted only if they are received on or before the final date set for the receipt of tenders.
- Expenses incurred in respect of the preparation and presentation of tenders cannot be refunded.
- No information of any kind will be given on the state of progress with regard to the evaluation of tenders.
- All documents submitted by tenderers will become property of the Commission and will be regarded as confidential.

10 LIQUIDATED DAMAGES: SEE ARTICLE II.16 OF THE MODEL CONTRACT

11 NO OBLIGATION TO AWARD THE CONTRACT

Initiation of a tendering procedure imposes no obligation on the Commission to award the contract. Should the invitation to tender cover several items or lots, the Commission reserves the right to award a contract for only some of them. The Commission shall not be liable for any compensation with respect to tenderers whose tenders have not been accepted. Nor shall it be so liable if it decides not to award the contract.

12 RESULTS

The results of the service must be forwarded to the Commission of the European Communities in Brussels. **The copyright will belong to the Commission;** the Commission will in particular have the right to publish the results.

13 DISCLAIMER

The following sentence is to be prominently displayed on the cover of each working paper and the final report of the study. The disclaimer should also be incorporated into the introduction of each working paper and final report.

The opinions expressed in this study are those of the authors and do not necessarily reflect the views of the European Commission.

PART 3: ANNEXES

ANNEX 1: ADMINISTRATIVE IDENTIFICATION FORM

<u>TENDERER'S ID</u>	
Name	
Legal form	
Date of registration	
Country of registration	
Registration number	
VAT number	
Address of registered office	
Contact address (if different)	
URL	
<u>AUTHORISED REPRESENTATIVE(S)¹²</u>	
<u>CONTACT PERSON</u>	
Name	
Forename	
Position	
Telephone	
Fax	
Email	
<u>DECLARATION BY THE AUTHORISED REPRESENTATIVE(S):</u> I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	

Place and date:

Name (in capital letters) and signature:

¹² Please include the names of the legal representative(s) whose contract signature is required in accordance with the statutes of the organisation and the official document to be provided under section 2.3

ANNEX 2: LEGAL ENTITIES FORM

As required in PART II under section 2.3 of the tender specifications.

A standard template in each EU language is available at:

http://ec.europa.eu/budget/execution/legal_entities_en.htm

ANNEX 3: BANK IDENTIFICATION FORM

As required in PART II under section 2.3 of the tender specifications

A standard template in each EU language is available at:

http://ec.europa.eu/budget/execution/ftiers_en.htm

ANNEX 4: EXCLUSION CRITERIA FORM

STUDY ON "EXPLOITING THE DIGITAL DIVIDEND"

A EUROPEAN APPROACH

The undersigned (authorised representative of the tenderer):

.....

Name of the company/organisation:

.....

Legal form:

.....

Official address:

.....

Registration number:

.....

VAT Number:

.....

Declares on his/her honour that the company or organisation that he/she represents:

- is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- has not been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata;
- has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- has fulfilled all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be carried out;
- has not been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

In addition, the undersigned declares on his/her honour that:

- they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or

emotional ties or any other relevant connection or shared interest;

- they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract;
- that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete;
- that in case of award of contract, they shall provide the evidence that they are not in any of the situations described in points a, b, d, e above.

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the Tenderer is a legal person and the national legislation of the country in which the Tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the Tenderer.

For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the Tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

- that the information provided to the Commission within the context of this invitation to tender is accurate, truthful and complete.

By signing this form, the undersigned acknowledges that they have been acquainted with the administrative and financial penalties described under art 133 and 134 b of the Implementing Rules (Commission Regulation 2342/2002 of 23/12/02), which may be applied if any of the declarations or information provided prove to be false.

Place and date:

Name (in capital letters) and signature:

ANNEX 5: POWER OF ATTORNEY

MANDATING ONE OF THE PARTNERS IN A JOINT TENDER AS LEAD PARTNER
AND LEAD CONTRACTOR

(to be filled in and signed by each of the partners in a joint tender)

The undersigned:

– Signatory (Name, Function, Company, Registered address, VAT Number)

having the legal capacity required to act on behalf of his/her company,

HEREBY AGREES TO THE FOLLOWING:

- 1) To submit a tender as a partner in the group of partners constituted by **Company 1, Company 2, Company N**, and led by **Company X**, in accordance with the conditions specified in the tender specifications and the terms specified in the tender to which this power of attorney is attached.
- 2) If the European Commission awards the Contract to the group of partners constituted by **Company 1, Company 2, Company N**, and led by **Company X** on the basis of the joint tender to which this power of attorney is attached, all the partners shall be co-signatories of the Contract in accordance with the following conditions:
 - (a) All partners shall be jointly and severally liable towards the European Commission for the performance of the Contract.
 - (b) All partners shall comply with the terms and conditions of the Contract and ensure the proper delivery of their respective share of the services and/or supplies subject to the Contract.
- 1) Payments by the European Commission related to the services and/or supplies subject to the Contract shall be made through the lead partner's bank account: **[Provide details on bank, address, account number]**.
- 2) The partners grant to the lead partner all the necessary powers to act on their behalf in the submission of the tender and conclusion of the Contract, including:
 - (a) The lead partner shall submit the tender on behalf of the group of partners.
 - (b) The lead partner shall sign any contractual documents — including the Contract, and Amendments thereto — and issue any invoices related to the Services on behalf of the group of partners.
 - (c) The lead partner shall act as a single contact point with the European Commission in the delivery of the services and/or supplies subject to the Contract. It shall co-ordinate the delivery of the services and/or supplies by the group of partners to the European Commission, and shall see to a proper administration of the Contract.

Any modification to the present power of attorney shall be subject to the European Commission's express approval. This power of attorney shall expire when all the contractual obligations of the group of partners towards the European Commission for the delivery of the services and/or supplies subject to the Contract have ceased to exist. The parties cannot terminate it before that date without the Commission's consent.

Signed in on **[dd/mm/yyyy]**

Place and date:

Name (in capital letters), function, company and signature:

ANNEX 6: LETTER OF INTENT FOR SUB-CONTRACTORS AND EXTERNAL EXPERTS

STUDY ON "EXPLOITING THE DIGITAL DIVIDEND"

A European approach

The undersigned:

Name of the company/organisation:

Address:

Option 1: Company/Organisation

Declares hereby that, in case the contract is awarded to [name of the tenderer], the company/organisation that he/she represents, intends to collaborate in the execution of the tasks subject to this call for tender, in accordance with the tender specifications and the tender to which the present form is annexed, and is available to carry out its part of the tasks during the period foreseen for the execution of the contract.

Option 2: External individual expert

Declares hereby that, in case the contract is awarded to [name of the tenderer], he/she intends to collaborate in an individual capacity as an external expert in the execution of the tasks subject to this call for tender, in accordance with the tender specifications and the tender to which the present form is annexed, and is available to carry out its part of the tasks during the period foreseen for the execution of the contract.

Place and date:

Name (in capital letters) and signature: