

TENDER SPECIFICATIONS

STUDY ON OPTIONS FOR THE FUTURE OF ETNS
(EUROPEAN TELEPHONY NUMBERING SPACE)

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PART 1: TECHNICAL DESCRIPTION

1 CONTEXT

The European Telephony Numbering Space (ETNS)¹ is a European numbering scheme parallel to existing national numbering schemes. The objective of the ETNS is to promote pan-European services by making numbers available in circumstances where neither national nor global numbers are suitable or available.

The ETNS is based on the use of a three-digit country code (CC) for group of countries + one-digit identification code, allocated by ITU, to overlay the existing European CCs allowing pan-European companies, organisations and individuals to facilitate Europe-wide access to their services via an ETNS Number².

1.1 History

The European Telephony Numbering Space (ETNS) was conceived in the early 1990's as a common access scheme to pan-European services across Europe.

In November 1992, a Council Resolution³ was adopted calling on Member States to start work within the framework of CEPT⁴ on the establishment of an ETNS, and inviting the Commission to facilitate its rapid introduction.

In 1996, the Commission published a Green Paper on a Numbering Policy for telecommunications services in Europe, in which (inter alia) it sought comments on the establishment of an ETNS for special services. There was a broad consensus among respondents that the ETNS should be implemented on the basis of the 388 code. This was reinforced by Council Resolution⁵ of 22 September 1997 which highlighted the importance of ensuring that the ETNS served a broad range of pan-European services, and allowed users to distinguish easily between different services and types of tariffs.

On 10 April 2000, the ITU assigned a shared E.164 country code + identification code (388 3) to 24 requesting European countries (Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, the Republic of Croatia, the Republic of Slovenia, the Slovak Republic, Spain, Sweden, Switzerland and the United Kingdom), after an application by the European Telecommunications Office⁶ on behalf of these countries via CEPT.

¹ See www.etns.org

² See <http://www.ero.dk/etns> for the technical details

³ OJ C318, 04.12.1992, p. 2

⁴ The European Conference of Postal and Telecommunications Administrations (CEPT) establishes a European forum for discussions, amongst others, on sovereign and regulatory issues in the field of post and telecommunications issues. See www.cept.org

⁵ OJ C303, 04.10.1997, p.1

⁶ With effect from January 2001, the European Telecommunications Office (ETO), was merged with European Radiocommunications Office (ERO), which took over some of the functions previously carried out by ETO and now performs these tasks on behalf of the ETO Administrative Council.

The first ETNS Conventions⁷ were adopted in 1999 within CEPT. They were revised in 2004⁸. With these Conventions, the 24 countries to which the ITU assigned the international code '3883' for the implementation of the ETNS delegated administrative responsibility for the ETNS to CEPT/ECC, and provisions for joining and leaving this group of countries are specified.

The Communications Committee (COCOM)⁹ has discussed ETNS on a number of occasions¹⁰. The Commission organised an open workshop on ETNS in Brussels on 24 June 2003¹¹.

1.2 European Legal Framework

There are provisions in the regulatory framework for electronic communications and services¹² regarding ETNS. Directive 2002/22/EC¹³ on universal service and users' rights relating to electronic communications networks and services (the "Universal Service Directive") requires Member States to ensure that all undertakings that operate public telephone networks handle all calls to the European telephony numbering space. This establishes a call connection obligation from anywhere in the EU.

Under Article 10 of the EC Treaty, Member States '*shall take all appropriate measures ... to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community*'. This includes the obligations concerning ETNS.

The Commission published its proposals for amendment of the regulatory framework in November 2007¹⁴. Discussions are currently held with the Council and the European Parliament. Changes related to ETNS concerns Articles 27 and 28 of the Universal Service Directive and part A point 4 of annex I to the authorisation Directive. The objective is to improve access to the ETNS and to clarify that calls should not be charged more than an intra-EU call. Provisions related to ETNS are also included in the proposed regulation of the European Parliament and of the Council establishing the European Electronic Communications Market Authority. The Authority would be charged with the administration and development of ETNS.

Regardless of this process, however, the current Directive will remain in force until when the revised framework is expected to enter into force.

1.3 ETNS management

Aspects of the management and administration of the ETNS are undertaken by the following bodies:

ETNS Administrator

⁷ ECTRA Decision 99(04), see www.ero.dk

⁸ ECC/DEC/(04)07, see www.ero.dk

⁹ see

http://www.ec.europa.eu/information_society/policy/ecomm/implementation_enforcement/comm_committee/index_en.htm

¹⁰ See for example COCOM03-08, COCOM 04-32, COCOM 07-48 in

<http://circa.europa.eu/Public/irc/info/cocom1/home>

¹¹ Refer to the following URL:

http://www.ec.europa.eu/information_society/topics/telecoms/regulatory/publicconsult/etns_workshop/report_of_etns_workshop/index_en.htm

¹² See http://www.ec.europa.eu/information_society/policy/ecomm/current/index_en.htm

¹³ OJ L 108, 24.4.2002, p.51, article 27.2 and recital 37,

http://ec.europa.eu/information_society/policy/ecomm/library/legislation/index_en.htm#dir_2002_22_ec

¹⁴ See http://ec.europa.eu/information_society/policy/ecomm/tomorrow/index_en.htm

The function of ETNS Administrator is performed by [Numbering, Naming and Addressing Working Group](#) (NNA WG)¹⁵ of the Electronic Communications Committee. The ETNS Administrator is responsible for implementation of the ETNS Conventions and for the designation of European Service Identities for new ETNS services.

ETNS Registrar

The function of ETNS Registrar is the responsibility of the ERO Director, and includes the assignment, withdrawal, and surveillance of ETNS Numbers. The Registrar is also responsible for the distribution of details of Routing Numbers associated with ETNS Numbers. In performing the function of ETNS Registrar, the ERO Director is ultimately responsible to the European Telecommunications Office Administrative Council.

NeuStar, Inc. manages the assignment, withdrawal, and surveillance of ETNS Numbers, registration of ETNS Service Providers and Serving Networks, distribution of Routing Numbers, and support of the number portability process on behalf of the ETNS Registrar.

Standards

In addition, an ETSI standard – [EN 301 161](#) (“Management of the European Telephony Numbering Space”)¹⁶ – specifies:

- The structure of ETNS Numbers
- The designation of European Service Identities for a particular service
- The length of ETNS Numbers
- The evolution of numbering from national numbers to pan-European numbers to global numbers
- The management methods to be used for controlling routing of calls.

1.4 State of play

Since 2000, ETNS has had a "slow start". The main problem identified in making ETNS operational seems not to be of a technical nature. It is rather due to (1) operators' strategies to delay and discourage the implementation of the ETNS project, (2) the lack of enforcement of the provisions in the Universal Service Directive with regard to ETNS and (3) the fact that the ETNS concept is not known by the market players or users in general, despite the time that has passed since its introduction. The ETNS administrator (Working Group Numbering, Naming and Addressing (WG NNA) of Electronic Communications Committee (ECC)) has now suspended its activities, and ITU has reclaimed the ETNS code.

Operators' strategies to delay and discourage the implementation of the ETNS project

The blocking practices of big European incumbent operators are a crucial factor in the "failure" of ETNS: the lack of interest they show in the ETNS concept, the lack of cooperation, or even their refusal to cooperate.

Bringing new competition to national markets is one of the main reasons for incumbents' lack of interest concerning ETNS. It seems that the incumbent operators did not estimate the benefit to themselves of implementation of the ETNS concept in the long term. In relation to this, the real threat for the incumbents and their revenue from the national market is not ETNS itself, but the expanding market of services using IP and especially VoIP.

Finally, incumbents in many countries have been successful in lobbying their regulator and organising themselves into powerful organisations (which have had a strong impact on ETNS) in order to avoid a successful implementation of ETNS.

¹⁵ <http://www.ero.dk/B7ECC88B-E5F9-4180-9073-748CD8CD29ED.W5Doc?frames=no&>

¹⁶ http://webapp.etsi.org/WorkProgram/Report_WorkItem.asp?WKI_ID=10713

Technical Interconnection issues could have been solved in a flexible way by the market itself

It might not have been necessary for ETSI to standardise the ETNS network architecture. The related interconnection issues could have been solved, or even should have been solved in a more flexible way, managed by the market itself. According to stakeholders, ETSI standards imply higher than necessary financial investments. Based on IP, current technology does not require such a complex network.

Role of NRAs with regard to ETNS

When the idea of ETNS was launched by the European Commission at the beginning of 1990, previous studies identified a market for this. However, today the ETNS concept is not known by the market players or users in general, despite the time that has passed since its introduction. This is likely to be due to the fact that ETNS was not promoted or marketed by any NRA, especially when compared to efforts to promote number portability and carrier selection.

Furthermore, important issues have been handled by the wrong department within the national regulators. Indeed, they have been handled by the numbering department within the NRAs even though these issues were not identified as being related to numbering. The numbering departments within NRAs seem to have had a large responsibility for ETNS, even though they may not have had sufficient market competence to support the market players in the regulatory process required for an operational ETNS (interconnection issues).

The role of the NRAs in relation to the incumbents' lack of cooperation, which resulted in the failure of ETNS, may also be highlighted. Most of the NRAs have not really taken action to enforce ETNS. It seems that the NRAs are unclear in the interpretation of the obligations in the EU directives, and that they are reluctant to enforce the EU legislation concerning ETNS.¹⁷

ETNS active service provider

In Luxembourg, one operator, namely Voipgate¹⁸, is active as an ETNS Serving Network and Service Provider. Voipgate is currently in the process of implementing the routing of ETNS inside Luxembourg by the setup of 2 projects with national operators in order to route ETNS on their multi-national networks. Furthermore, Voipgate has been assigned routing codes in order to be able to transit calls to ETNS destinations through international networks. More than 10,000 numbers are actively used. Besides this, Voipgate has made large human and financial efforts in active marketing to promote ETNS, to educate end-users, to distribute information to end-users, carriers and operators, to deploy dedicated ETNS infrastructure, to obtain regulatory support and regulated technical numbering resources.

ETNS activities suspended

At its meeting in Reykjavik on 20-24 June 2005 the Electronic Communications Committee (ECC) of CEPT decided, following the proposal of its Working Group Numbering, Naming and Addressing (WG NNA), to suspend all activities as the European Telephony Numbering Space (ETNS) administrator till the identified weaknesses of the ETNS are resolved.

¹⁷ In February 2003 a proposal by the European Commission for a recommendation concerning the interpretation of ETNS (article 27 in the Universal Service Directive) was rejected by COCOM (see cocom08-03).

¹⁸ See <http://www.voipgate.com/site/index.php>

Reclamation of the ETNS code by ITU

Over the last year, there have been mail exchanges between the 24 assignees of the ETNS code and the ITU TSB Director regarding the actual management and usage of the code. The TSB Director has indicated in one of his letters that he might reclaim the resource. At the ITU-SG2 meeting in May 2008, there was consensus to "*advise the Director of TSB to reclaim the ETNS numbering resource 388 3 on 31 December 2010. The reasons for the reclamation are that the assignees did not comply with the assignment criteria specified in the footnote of 9.3 of E.164.3; that an EU Directive (which is binding for EU members) refers to that code; that the conditions originally attached to the assignment appear to be obsolete, but the assignees have not presented an agreed request for new conditions; that the only current use of the code is inconsistent with the assignment conditions.*" Based on that, the ITU TSB Director reclaimed the code.

2 OBJECTIVES

ETNS still provides a unique opportunity to develop a European numbering space, to give a "communications identity" to Europe and to provide a greater competition in the provision of services at pan-EU level. It generates more choices and opportunities for service providers to deliver and for users to access new types of services across a wider economic area than a single country to EU citizens.

ETNS is still an opportunity for Europe and its internal market. But the complex ETNS concept conceived in the 90ies becomes outdated and needs to be enhanced or reconceived. Actually, every single aspect of ETNS should be revisited in the light of market, technology and regulatory development.

The aim of this study is to provide the Commission with a clear view on the possible options and scenarios to support the existence of the ETNS and prepare its future.

In other words, the study should reply to the question:

How to make ETNS a success in the near future?

Part 1: lessons learned

A clear description of the lessons learned from the past should be provided, including the role of economic factors in the development of ETNS.

This section should include, *inter alia*, answers to the following questions: How much have the (incumbents) operators/service providers spent for ETNS? What costs have they estimated for ETNS? Who uses the number? What are the barriers to the ETNS development that should be removed? What (scope, administration, management, routing, interconnection, billing, legal framework and its implementation, (ETSI) standards, etc....) should be changed to make it work?

Part 2: the renewed ETNS

A description of the benefits of a fully-functioning and efficient ETNS should be provided. Furthermore and in order to achieve a fully-functioning ETNS, the study should, *inter alia*, answer the following questions: How should ETNS be redesigned? How the barriers identified in part 1 should be removed? What will these changes cost? How should calls to and from ETNS be handled and be charged? What are the key success factors?

The study should propose at least three detailed options.

While taking into account of the difficulties in the past, the study should be forward-looking. Particular attention should be devoted to rapidity and simplicity of implementation, and to acceptance by stakeholders of the proposed way forward, which should be key goals of the study. Unnecessary complexity should be avoided. The study should explain the criteria and rationale why an option may be preferred to another one. Pro's and con's of each option and the degree of acceptance by the main stakeholders should also be depicted. Moreover, the steps to be taken from today's situation to the proposed scenario should be described, together with a project plan with milestones.

At least two-thirds of the study should be dedicated to part 2.

3 DURATION

Duration of the tasks must not exceed 5 months and is subject to the provisions of Art. I.2.3 of the contract.

4 DELIVERABLES, MEETINGS AND TIMETABLE

4.1 Deliverables

- **Preparatory documents for the inception meeting**, including a draft meeting agenda, study objectives, methodology, resources and timetable, a draft (but detailed) **outline of the study report**, and draft workshop-related documents (draft agenda, draft venue details, draft invitation letter, draft list of experts, etc...), to be delivered to the Commission's services three working days before the inception meeting. It should answer the basic questions: "*Who? what?, how?, by when?*"
- **Inception report**, that will contain the minutes of discussions and agreements reached in the inception meeting. It will be accompanied by the updated preparatory documents mentioned above in accordance with the indications provided by the Commission during the inception meeting. The inception report shall be made available to the Commission's services one week after the inception meeting.
- **Draft Interim study report** which will cover part 1 of section 2 completely. It will also cover the three proposed options as requested in part 2, which will be sufficiently described in order to support the discussions at the interim meeting. The interim study report shall be made available to the Commission's services one week before the interim meeting and within 8 weeks after signature of the contract by the last contracting party.
- **Interim meeting report**, that will contain the minutes of discussions and agreements reached in the interim meeting. It shall be made available to the Commission's services one week after the interim meeting.
- **Interim study report**, updated in accordance with the indications provided by the Commission during the Interim meeting shall be made available to the Commission's services one week after the interim meeting.
- **Supporting documents for the workshop** shall be made available to the Commission's services one week before the workshop.
- **Record of the workshop proceedings** shall be made available to the Commission's services one week after the workshop.

- **Draft Final study report**, including the following sections:
 1. Separate executive summary of around 10 pages containing a description of the most important findings, in easy-to-understand terms
 2. Introduction
 3. part 1: lessons learned
 4. part 2 (main part of the study): the renewed ETNS
 5. Conclusions
 6. annexes containing any factual or technical material or any detailed analysis

The draft final study report shall be made available to the Commission's services one week before the final meeting and within 16 weeks after signature of the contract by the last contracting party.

- **Final meeting report**, that will contain the minutes of discussions and agreements reached in the final meeting. It shall be made available to the Commission's services one week after the Final meeting.

- **Final study report**

The final study report shall be made available to the Commission's services within 20 weeks after signature of the contract by the last contracting party. The final study report shall be provided in 3 bound paper copies including annexes and in "Word" and "PDF" format suitable for publication by the Commission's services on the Commission website.

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 1 week after signature of the contract by the last contracting party.

Interim meeting

An interim meeting during which the contractor will present the interim findings will be held within 9 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.

Workshop with selected experts

The contractor will organise a one-day workshop bringing together experts and representatives of stakeholders. The workshop will take place in Brussels **within 12 weeks** after signature of the contract by the last contracting party. The goal of this workshop is to validate the proposed options of part 2. The organisation of the workshop, including invitations to participants and speakers, the moderation, the reporting, and all related costs (booking arrangements, rental of a conference room, 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. The timing will be such as to allow the use of the interim report as a basis for the workshop debate and the workshop findings to be integrated into the present study.

Final meeting

A final meeting during which the contractor will present the draft final study report will be held within 17 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.

4.3 Timetable

Deliverable ↓	Meeting ↓	Week →	1-3d	1	2	8	9	10	11	12	13	16	17	18	20
Preparatory doc for the inception meeting															
	Inception meeting														
Inception report															
Draft interim study report															
	Interim meeting														
Interim meeting report															
Interim study report															
Workshop supporting documents															
	Workshop														
Workshop proceedings															
Draft final study report															
	Final meeting														
Final meeting report															
Final study Report															

5 TERMS OF APPROVAL OF REPORTS

After reception of the interim study report, the draft final study report and the final study report included in section 4.1 above, the Commission will have 30 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. 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 form¹⁹ (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 form²⁰ (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 form²¹ (filled in, signed by an authorised representative, and supported by relevant evidences according to the entity concerned, i.e. private/public/individual)

¹⁹ A standard template in each EU language is available at:
http://ec.europa.eu/budget/execution/legal_entities_en.htm

²⁰ A standard template in each EU language is available at: http://ec.europa.eu/budget/execution/ftiers_en.htm

²¹ A standard template in each EU language is available at:
http://ec.europa.eu/budget/execution/legal_entities_en.htm

- 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)

- 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 in Part 1 section 4.

(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.).

<p style="text-align: center;">The total price quoted cannot exceed 150.000 euros. Tenders with a higher total price will be rejected.</p>
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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 two financial years Statement of overall turnover and turnover from contracts in the field of consultancy in electronic communications 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(s), including subcontractors if any, acquired in the last three years, in the field of electronic communications
Documentary evidence:	List of contracts in the field of electronic communications 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 this study, in particular numbering, interconnection, cross-border services of at least 5 years

Criterion:	Management capability
Documentary evidence:	List of contracts of a value of at least 100.000 euros performed in the last five years by the tenderer(s), including subcontractors if any,

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 The tenderer shall explain the way in which he intends to handle the various requirements.	35	17,5
2. Technical quality of the tender <ul style="list-style-type: none"> • Completeness and full coverage of the scope of the tasks • Quality of the methodological approach • Degree of innovation and of added value • Value added at the EU level (All the sub-criteria above are of equal relative importance)	50	25
3. Management Sound and realistic allocation of financial and human resources, including allocation of expertise	15	7,5
TOTAL	100	60

Minimum score per criterion (threshold):

Tenders scoring less than 50% of the maximum score for any technical award criterion will be considered of insufficient quality and rejected.

Minimum total score (threshold):

Tenders with a total score of less than 60 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 deliverable. The disclaimer should also be incorporated into the introduction of each deliverable.

<p>The opinions expressed in this study are those of the authors and do not necessarily reflect the views of the European Commission.</p>
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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)²²</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:

²² 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: DECLARATION OF HONOUR WITH RESPECT TO THE EXCLUSION CRITERIA AND ABSENCE OF CONFLICT OF INTEREST
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The undersigned *[name of the signatory of this form, to be completed]*:

in his/her own name *(if the economic operator is a natural person)*

or

representing *(if the economic operator is a legal person and the declaration is signed by a director or person with powers of representation)*

official name in full:

official legal form:

official address in full:

VAT registration number:

declares that he/she / the company or organisation that he/she represents:

- a) 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;
- b) has not been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*;
- c) has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- d) 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;
- e) 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;
- f) 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 their honour:

- g) 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;
- h) 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;
- i) they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- j) 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.

- k) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.
- l) 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 above²³.

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.]

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.

Full name

Date

Signature

²³ Mandatory for contracts of value above €133 000 only (see art. 134(2) of the Implementing Rules). The contracting authority can nevertheless request such evidence for contracts with a lower value.

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 OPTIONS FOR THE FUTURE OF ETNS
(EUROPEAN TELEPHONY NUMBERING SPACE)**

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: