PLATFORMS WITH SIGNIFICANT NETWORK EFFECTS ACTING AS GATEKEEPER
IMPACT ASSESSMENT SUPPORT STUDY
VIGIE 2020/0630

under Framework contract SMART 2019/0024 Lot 1

Terms of Reference

PART 1: TECHNICAL DESCRIPTION

1. CONTEXT AND BACKGROUND

Online platforms play a prominent role in the creation of digital value that underpins current and future economic growth in the EU. By ‘online platforms’ we mean digital services that facilitate interactions via the Internet between two or more distinct but interdependent sets of users. Examples of such online platforms include online marketplaces, app stores, search engines, social media and platforms for the collaborative economy. These services are of major importance to the effective functioning of the Digital Single Market. In its 2015 Digital Single Market Communication¹, the Commission stressed that 'the market power of some online platforms potentially raises concerns, particularly in relation to the most powerful platforms whose importance for other market participants is becoming increasingly critical'. Its 2016 Communication "Online Platforms and the Digital Single Market Opportunities and Challenges for Europe"² identified a series of concerns relating to potentially harmful trading practices in relations between platforms and their professional users, and announced a more detailed assessment of such practices. Delivering on its commitments, the Regulation on Promoting Fairness and Transparency for Business Users of Online Intermediation Services (P2B Regulation) was adopted in June 2019³ and will be applicable as of July 2020. Conceived as a first step measure to bring more fairness and transparency in the business to platforms relationships, the regulation defines a set of general transparency rules for online

intermediation services and online search engines to follow in their relationship with business users and provides for effective and quick redress.

As a second, additional step, the Commission also committed to reflect on the need for further rules, supported by the work of the Observancy for the Online Platform Economy\(^4\) set up in April 2018. This Observatory was set up to monitor emerging issues and new developments in the online platform economy. The work of the Observatory has included aspects such as the measurement of the online platform economy, data access issues, and problems related to differentiated treatment in online platforms. In 2020 it will devote its work also to the topics of transparency in online advertising and market power of platforms, in particular as regards criteria to define the platforms of strategic economic power. It is supported in these tasks by a study contract to gather evidence and provide analysis.

The digital platform economy is characterised by strong ‘winner takes most’ effects, whereby an accumulation of a critical amount of users or device data generates an essentially incontestable competitive advantage that may lead to the situation where once an incumbent is established, the ability to scale up or enter the market may be extremely difficult for any competitor. This is due to the specificities of the platform economy that allow the winner a large competitive advantage due to the economies of scale and of scope, reinforced by data-driven network effects. A potential new entrant or market operator that would like to expand may find it extremely difficult to overcome this competitive edge without operating a sufficiently large user base. This position allows those platforms (Platforms with Significant Network Effects acting as Gatekeepers) to act as private regulators setting the rules of the game on the markets they control, which are critical markets for a very large number of users and SMEs and are central to the digital economy.

At international, EU and national level policy, reflections have been thus ongoing on how to increase and safeguard competition in digital markets and prevent public harms in the global digital economy. Several reports\(^5\) point to the need to consider an ex-ante regulatory framework to complement competition rules in addressing these challenges.

In its Communication on Shaping Europe’s Digital Future, the Commission announced that it would further ‘explore, in the context of the Digital Services Act package, ex ante rules to ensure that markets characterised by large platforms with significant network effects acting as gate-keepers, remain fair and contestable for innovators, businesses, and new market entrants’\(^6\).

This commitment is reflected in the Commission’s Work Programme for 2020, which includes, under the Digital Services Act chapeau, an initiative to regulate online platform


\(^{5}\) Including Commissioner Vestager Special Advisors’ Report, the Furman Report, the Stigler Centre report or the Australian Competition and Consumer Commission Report.

markets with strong network effects, with the goal of securing the contestability of such markets as well as improved regulatory oversight.

The accompanying Inception Impact Assessment sets out a preliminary problem analysis and potential options to regulate online platform companies that benefit from strong network effects, with the goal of enhancing the contestability of markets where these platforms are present as well as to provide improved regulatory oversight over these online platform companies.

This initial analysis focuses on the role of some large online platforms driven by strong economies of scale, and direct and indirect network effects who increasingly act as private gatekeepers to critical online activities for an exceptionally large population of private and business users. This gatekeeper role is enabled inter alia by their hold over vast amounts of data and in some cases very large customer bases. Their systemic ability to cement and even expand their critical gatekeeping roles, including in other ecosystems, to raise barriers to entry and expansion for rivals and to increase their hold and leverage over their users have not been effectively tackled by existing regulation. A particular challenge for market regulation arises from the opacity and complexity of these large platform ecosystems resulting from both platforms’ cross-market (vertical and horizontal) integration and automation of their core services and the significant information advantage such platforms have over regulators.

This study should support the evidence-gathering of the Commission, providing it with robust data and insights as regards issues linked with significant network effects/gatekeeping power of large online platforms and should support the Commission’s Impact Assessment process by gathering and analysing data and evidence, and by providing robust assistance in support of the assessment of different options.

2. SUBJECT, OBJECTIVES AND TASKS

The objective of the study will be to assist the Commission’s Impact Assessment process in providing it with robust evidence as regards issues linked with gatekeeping power of digital platforms with strong data-driven network effects, and a structured analysis of problems raised by those platforms.

To this end, the study will also aim at providing technical, legal, and economic analysis of the dynamics of digital platform ecosystems, which occur outside the existing competition law notion of relevant markets. It will also support the Impact Assessment by scoping the parameters of intervention (economic players in scope of the initiative and criteria relevant to identify these players) and helping to identify possible policy options and providing preliminary analysis of their impact.

The insights provided by the study should support the Commission’s Impact Assessment and underpin its policy measures.

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7 Examples include algorithms used in AdTech programmatic advertising, black-box algorithms, access to auditable data, platforms’ rules, etc.
Accordingly, the study has three specific objectives:

1. Providing a structured analysis of (i) the issues raised by digital platforms with strong data-driven network effects and (ii) analysis of the ability of current regulation (e.g. competition law; P2B regulation) to address these issues (regulatory failures).
2. Scoping the parameters of intervention which match the problem analysis (identify economic players in scope of the initiative, and criteria relevant to identify these players).
3. In agreement and cooperation with Commission services, help the identification of possible policy options, and provide evidence in analysing their impact.

Tasks

Task 1: Identify and provide for structured analysis of issues raised by platforms with strong network effects acting as gatekeepers.

Sub-task 1: Identify issues stemming from gatekeeper power within online platforms ecosystems

Due to the economics of online platforms and them benefiting from strong network effects these platforms can leverage the same core abilities (data; customer base; technological assets, skills and know-how; and/or financial capital) to enter and potentially ‘conquer’ new (and even completely unrelated, in terms of economic sector) markets with relative ease. Such expansion further strengthens their core abilities and limits the contestability of these markets. This may lead to unusually large commercial imbalances and bargaining power between platforms on the one hand and their users and rivals on the other. This power of certain online platforms and their role as gatekeepers between business users and consumers also allows them to control almost entire ecosystems and unilaterally set rules within the platform ecosystems they control.

It may also give scope for unintended harms as well as for misuse, such as: (1) risk of unfair commercial ‘platform-to-business’ practices (e.g. self-preferencing, data leveraging) and/or (2) risk of distortion of fair competition and fair trading conditions within platform ecosystems (e.g. discounting ‘organic’ results in favour of advertisements).

The study should:

1) gather evidence reflecting these trends in the online platform economy;
2) identify concrete issues posed by platforms with significant network effects acting as gatekeepers and;
3) identify and analyse business practices that potentially harm innovation, consumer welfare, business users and competitors.

In terms of harms for innovation, the analysis should focus on whether the existing (and
expanding) ecosystems put more emphasis on the private gain of platforms (for example even more effective exploitation of data) or social gain (more innovative services).

As regards, impacts on competitors, the study should explore whether the existing platform ecosystems hinder emergence of competitors, by limiting their growth opportunities, especially of SMEs and start-ups, when entering new markets or expanding their operations within existing markets.

The study should also analyse possible harms in terms of consumer choice, focusing on whether there is enough inter-ecosystem competition to offer consumers viable alternative business models, e.g. in terms of more privacy-friendly options or more objective ordering of goods, services, apps, sites. It should outline whether these practices have or might have an effect on technology development, innovation, connectivity and other priorities of the digital strategy.

This analysis should also capture the connected devices and Operating System–related issues (more broadly covering the integration of platform services with physical equipment) and how they affect competition, innovation, and diversity.

Case studies

To fulfill this task the contractor should carry out a series of concrete case studies (at least 8) which would focus on practical issues happening in the online platform economy, supported by the collection of facts and figures underpinning the overall analysis. The case studies should reflect the following issues:

1/ **Self-preferencing**: Amazon is both a retailer and a market place operator, while Apple is both an app developer (e.g. Apple Music) as well as operator of the App Store. A general, automatic rule could prohibit or restrict any differentiated treatment by those platforms when they are vertically integrated (i.e. non-discrimination obligation for a vertically integrated platform, inspired by similar rules in the telecoms framework), to separate clearly their roles as organisers of the marketplace and as a competitor on these marketplaces.

2/ **Data access**: digital innovators aiming to develop products/services that are essentially unrelated to the markets served by platform with market power (e.g. access to specific data sets for innovation of public policy objectives) may require access to significant amount of data held by these platforms. In situations where the market does not provide for a market based solution and these platforms are unwilling to share their data, it may be necessary to require such platform through ex ante regulatory measures to offer access to the required data on reasonable, standardized and non-discriminatory terms.

3/ **Digital identity services**: large digital platforms increasingly combine their services with digital authentication services, even to access unrelated third-party services. As a result, users are increasingly locked in to a small set of digital ID services, and are frequently unable to

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use alternatives, including the ones mandated under EU rules. Restrictions or separations of digital ID services from platforms’ commercial operations may be necessary to allow alternative identification methods to enter the market.

4/ **Interoperability**, e.g. based on open standards, between certain digital platform services, can potentially allow new and alternative services to challenge incumbents, or even develop new innovative products that incumbents may not be developing (yet), to increase innovation. Such an obligation, however, would only make sense for a subset of digital services, e.g. social media services, and should be designed on a case-by-case basis.

5/ **Leveraging conglomerate** data holdings into other markets making entry or expansion in these markets increasingly difficult and thereby expanding market power. For example, thanks to the variety and amount of data harvested from different services and users of the platform(s) managed, large online platforms have incentives to use their conglomerate dimension to internalise data exploitation across different services. This may make it more difficult for existing market operators to expand or new market operators to enter the market (e.g. data sharing between Facebook and WhatsApp reported in the corresponding BNetZA investigation). This in turn may prevent the development of innovative data solutions by third parties.

6/ **Information asymmetries** in data gathering: e.g. gatekeepers’ services (such as social media or search engines) provided to end-users in exchange of data may be affected by very high switching costs (compared to the price of the service, often zero-priced) and high information asymmetries about the amount and use of data gathered, further strengthening the economic power of these providers vis-à-vis business users and/or limiting entry of other providers/diversification of services (for instance of privacy-friendly services).”

These case studies should be further developed under sub-task 2 – where the contractor should assess the adequacy of the current regulation to address the selected problems. This analysis should also constitute a reference point for devising criteria identifying platforms that should be in scope of the possible regulatory intervention (Task 2) and support the Commission in designing the policy options as they emerge by providing preliminary assessments of their impacts (task 3).

**Sub-task 2 : Specify the regulatory gaps in terms of gatekeeping power of platforms**

As demonstrated by a number of recent studies (see context above), the existing service-, market- or sector-specific regulation does not effectively address systemic and structural issues deriving from the economic power of online ecosystem (vertical integration allows circumvention when only parts of the value chain are regulated) while existing competition rules are not designed to address (i) issues deriving from the structural and systemic control over whole platform ecosystems that are essentially impossible to contest as well as (ii) wider competition related systemic problems in the online platform economy. Due to the particular dynamics of digital economy the cases of market distorting practices are due to (i) effects of the structural and systemic control exercised by large digital platforms over online ecosystems as well as (ii) wider structural market issues and market failures rather than abusive practices by a dominant company. The antitrust interventions, such as a restoration of status quo may thus be insufficient to address the underlying problems and set in too late.
The study should thus assess whether the existing regulatory approach is adequate to address the challenges stemming from complexities of online platform ecosystems, the fast pace of change and, in some cases, the platforms’ market power.

It should also explore whether the ex-ante approach targeting systemic challenges could be necessary to complement competition law enforcement in order to prevent (irreparable) harms instead or in addition of trying to reverse the situation ex post as is the case with enforcement of antitrust rules. In particular, it should also explore whether issues related to systemic and structural control by large online platforms of online ecosystems would require different attention as wider structural competition problems (e.g. structural market failures).

The analysis would need to be mapped against past and ongoing competition cases to detect any possible regulatory gaps and possible new avenues for some form of soft or classic regulation.

The contractor should use as a point of reference the case studies developed under sub-task 1 analysing for each case whether the adequate regulatory framework exists to address identified problems and whether the situation would be different with a further regulatory intervention. If so, the contractor should strive to analyse whether a horizontal framework could constitute an appropriate solution, whether a more case-by-case approach would be necessary or whether the combination of both options may be necessary. For each case, the contractor would need to assess whether the regulatory measures would contribute to the objective of making “markets […] fair and contestable for innovators, businesses, and new market entrants”.  

Task 2
Analyse the identification criteria defining “gatekeeper”/“structural” platforms

The study should support setting a proper analytical framework to identify platforms “acting as gatekeepers”, using as a reference point characteristic of platforms identified in the case studies under task 1. For the purpose of this identification, the contractor is expected to propose a set of mainly quantitative indicators (and underlying methodology for setting those) on the basis of platforms’ characteristics such as number of unique users, number of visits, the amount of gathered data, time spent on the platform, network effects and drivers of growth, main source of income, multi-platform integration, third parties’ turn-over realised on a platform or geographic coverage, number of transactions, etc. The above indicators can be measured in various ways, therefore the contractor should propose a methodology leading to the setting of appropriate criteria and starting with the most important online platforms. In cases where lack of data would not allow the contractor to propose quantitative indicators, the contractor should find suitable qualitative alternatives. Moreover, the study should look into questions such as (but not limited to) "What parallels could be drawn from other sectors, e.g.

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the *ex ante* regulation in the telecommunications sector, 'systemic' aspect in the banking sector, others sectors?"; "What criteria should be used to reflect the strength of data-driven network effects, systemic nature of failures identified in the platforms' ecosystems?"

**Task 3 Analysis of possible impacts of the initiative**

Regulatory measures could be required to address harms stemming from platforms’ gatekeeper power. To this end, the study should assess economic, social and environmental impacts of possible policy interventions on innovation, competitiveness, growth, international trade flows and agreements, competing platforms/new entrants, businesses, SMEs, start-ups, consumers, society, etc., in quantitative, qualitative and monetary terms. The contractor should identify the most significant impacts and provide an in-depth analysis, in particular by identifying positive and negative impacts (gains/losses) on each of the group.

Possible options include: (1) a new ex ante regulatory framework, including regulatory supervision (regulator), and a set of horizontal obligations and prohibitions and/or case by case identification and analysis of harms posed by individual megaplatforms, and a set of ex ante remedies available to a regulator/network of regulators to address those harms; (2) targeted regulation (e.g. data access/sharing obligation, interoperability, portability and standards requirements, regulation of app stores/connected devices and their operating systems and/or regulation of online advertising).

The impact analysis will give due consideration to diversity of business models and actors’ interaction along the value chain(s) in platform ecosystems. Impacts will be analysed in line with the requirements of the [Commission's rules](#) for carrying out impact assessments.

**Methodology**

The contractor should propose a comprehensive and appropriate methodology for the necessary data collection under each of the tasks. This would among others consist of desk research of the latest academic literature on platforms, recently published reports and position papers by the regulatory authorities and government bodies of Member States and at international level (including the indicative list in Reference Documents below) organising data collection activities that are necessary to fulfil the tasks of the tender (e.g. surveys, panels, interviews), as well as acquiring off-the-shelf data. To this end the contractor should reserve appropriate resources that should not amount to more than 5% of the value of the contract.

Overall, it is important not to neglect practices, trends at international level, that can help to detect trend setting practices and anticipate early detection of tendencies in the EU.

The contractor is to cooperate closely with the European Commission’s Joint Research Centre on performing the necessary economic and whenever feasible econometric analysis,
suggesting robust models to estimate the impact of the various options (task 3) including in particular the cost of non-action under the baseline scenario. Due regard is to be had to the scale and scope efficiencies in online platforms and the related data processing. It should also use the resources of the Data Lab as set up by a contractor under running study on Support to the Observatory for the Online Platform Economy and available from the Commission services.

The impacts are to be assessed according to the Better Regulation Guidelines and should include economic impacts in broad sense, as well as more specific in nature, for instance: increases or decreases in compliance costs, administration and enforcement costs incurred by the responsible authorities, gains or falls in market efficiency, competitiveness, innovation etc. All relevant impacts should be assessed qualitatively and quantitatively whenever possible. Where data is lacking, the contractor should organise various data collection exercise that would include focus group interviews with stakeholders, surveys, scrapping or purchasing existing data sets, as well as use other techniques for data estimation. Contractor’s methodology should also include economic and econometric modelling, empirical analysis, foresight scenario modelling and policy design, etc.

Task 1

The study must be conducted in compliance with the European Commission's Better Regulation Guidelines, comprise necessary data mapping, and the work under Task 1 should be aligned in particular with Tool Box 14 (analysis of market/regulatory failures and behavioural biases).

As regards sub-task 2, the study contractor should detail a convincing strategy that allows comprehensively mapping out the different regulations that the online platform are in theory subject to, ranging from horizontal competition frameworks, to national unfair commercial practices rules to sector-specific rules such as financial legislation.

Task 2

The contractor is to devise a convincing strategy for identifying any possible relevant scoping parameters for ’systemic’ online platforms, and to leverage existing studies and papers as well as databases that could help determine the impact of different platform companies in the EU and globally.

Task 3

The contractor is to rely on economic approach to assessing and quantifying impacts on overall consumer welfare (e.g. consequence of lowering the economies of scale and scope in data collection by online platforms). It is also suggested that for this task the contractor cooperates with JRC. The Commission will facilitate this cooperation.

The data collection exercise will support the Commission in providing the evidence base and defining the problem and its extent, as well as allow the contractor to produce qualitative and most of all quantitative data supporting the impact assessment.

The study must be conducted in compliance with the European Commission's Better Regulation Guidelines. The study should take into consideration previous studies and
analyses, including the input of the Observatory of the online platform economy, but should not accept or reproduce earlier conclusions without careful scrutiny. Wherever appropriate, the requirements specified in these technical specifications will be complemented by the requirements specified in the Better Regulation Guidelines of the European Commission.

To the extent not prescribed by the Better Regulation Guidelines and the Toolbox, tenderers are free to propose methodologies, but any approach chosen should be compatible with the Commission's Better Regulation Guidelines. The methodology should propose suitable data collection tools for obtaining new evidence on the identified issues. Where possible, evidence should be empirical and quantitative.

The contractor will propose and outline an agile methodological approach for each of the tasks mentioned above, elaborating on the data collection and data analysis strategy. Tenderers should follow the methodological guidance included in the description of tasks here-above, but are free to propose additional data sources and methodological tools to best address the objectives of the study. They may also include additional sub-tasks to support the objectives.

The study should be based on data from a variety of sources such as company, industry, government, trade journals and organisations, as well as market studies, including the reports mentioned under 6. It should include information from literature reviews and discussions/interviews with technology/market experts and key stakeholders in the field of online platform economy. Efficient use of available networks should be made notably by liaising with all relevant stakeholder groups and centres of excellence.

3. **DURATION**

The duration of the contract will be 5 months (following the signature of the contract by both parties), of which 4 months are for the execution of the contract and one month for the final approval of the deliverables and closure of the contract.

4. **DELIVERABLES, MEETINGS AND TIMETABLE**

4.1. **Deliverables**

**Interim study report** which will report on progress of tasks 1 and 2 shall be made available to the Commission’s services within 3 months after signature of the contract by the last contracting party. A draft of the report shall be made available to the Commission's services 5 working days before the interim meeting in month 3. The report should be finalised after the meeting taking into account all observations and comments raised at the meeting. The finalised Interim Study Report shall be submitted to the Commission’s services within 2 weeks after the first interim meeting

**Final study report** shall be made available to the Commission’s services within 5 months after signature. A draft of the final report shall be made available to the Commission's services for information 7 working days before the final meeting. The report should be finalised after the meeting taking into account all observations and
comments raised at the meeting. The finalised Final study Report shall be made available within 2 weeks after the final meeting.

The final datasets, as described under Task 1 and 2 should be provided as structured data in a machine readable format (e.g. in the form of a spreadsheet and/or an RDF file) for Commission internal usage and for publishing on the Open Data Portal, in compliance with Commission Decision (2011/833/EU). If third parties' rights do not allow their publication as open data, the tenderers should describe in the offer the subpart that will be provided to the Commission free of rights for publication and the part that will remain for internal use. The raw datasets and/or the derived indicators shall be made available to the Commission’s services within 5 months after signature of the contract by the last contracting party.

Deliverables must be clear and well-argued. Facts and data should be clearly separated from hypotheses and extrapolations. The probability and credibility of the underlying scenarios etc. should be assessed and explained. Where applicable, unknowns or alternatives should be highlighted. A short glossary shall be provided.

4.2. Terms of approval of deliverables

After receipt of any of the above deliverables included in the 5.1, the Commission will have 20 calendar days in which:
– to approve it;
– to reject it and request a new report.

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

For the terms of approval of reports linked to payments we refer to Articles I.6 of the framework service contract.

4.3. Report format, Publishable executive summary, Requirements for publication on Internet, Graphic requirements

The reporting format shall follow the requirements laid out in the tender specifications for Framework contract SMART 2019/0024 section 6.

4.4. Final study report format,

Unless otherwise agreed with the Commission, the final study report shall follow the requirements laid out in the tender specifications for Framework contract SMART 2019/0024 sections 6.2.

4.5. Final dataset to be submitted

The final dataset to be submitted will be provided in line with the tender specifications for Framework contract SMART 2019/0024 section 6.6.
4.6. Meetings, presentations and workshop

Apart from the meetings indicated under deliverables other meetings may, whenever appropriate, be requested by the Commission or the contractor. Unless otherwise agreed, meetings will take place in Brussels. The contractor will bear the costs of attendance of its own staff for all the meetings.

Within three days following each meeting, the contractor will circulate draft conclusions of the meeting to all participants, together with copies of presentations made during the meeting or other related documents.

4.7. Timetable

<table>
<thead>
<tr>
<th>Title</th>
<th>Type</th>
<th>Due month</th>
<th>Linked to payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kick-off meeting</td>
<td>Meeting</td>
<td>M1</td>
<td>No</td>
</tr>
<tr>
<td>Interim meeting</td>
<td>Meeting</td>
<td>M3</td>
<td>No</td>
</tr>
<tr>
<td>Interim report</td>
<td>Deliverable</td>
<td>M4</td>
<td>No</td>
</tr>
<tr>
<td>Final meeting</td>
<td>Meeting</td>
<td>M5</td>
<td>No</td>
</tr>
<tr>
<td>Final study report</td>
<td>Deliverable</td>
<td>M5</td>
<td>Yes</td>
</tr>
<tr>
<td>Final dataset</td>
<td>Deliverable</td>
<td>M5</td>
<td>Yes</td>
</tr>
<tr>
<td>Conference calls/targeted meetings</td>
<td>Meeting</td>
<td>Every 2 weeks</td>
<td>No</td>
</tr>
</tbody>
</table>

5. Reference documentation

The contractor will build on the results of the existing body of research on the topic of this study, including the following reports:


OFCOM, “Online Market Failures and Harms”, an economic perspective on the challenges and opportunities in regulating online services” (2019)


ACM - the Netherlands Authority for Consumers & Markets ACM, “Market study into mobile app stores”, (2019)


PART 2: ADMINISTRATIVE DETAILS

1. ELIGIBILITY REQUIREMENTS

All requirements related to the submission of a tender are detailed in the Request for Services (see section 2).

2. SPECIFIC TENDER PRESENTATION

The specific tender for the tasks required under the specific contract has to include as a minimum all elements laid out in the tender specifications for Framework contract SMART 2019/0024 section 5.4:

a) an outline of the proposed methodology, where applicable including a discussion of alternative approaches and reasoning for the preferred option;

b) information on data needs, data availability and approach to data collection, including justification;

c) risk and preliminary sensitivity analysis;

d) a work plan, containing the attribution of tasks to the members of the team and by category of expert, the time schedule for the work performed with set milestones at relevant phases of the project;

e) the composition of the team that performs the work, in particular the number of staff deployed and the professional level of each staff member in function of the staff category as defined in the staff categories and according to the established key areas of expertise; CVs qualify as supporting documents;

f) a budget breakdown (by types of tasks as well as by staff categories) and the total price for rendering the requested services, duly aligned with the price list of the governing framework contracts;

g) an indication whether the tenderer identifies a potential conflict of interest and how it intends to deal with it.

The tender must be signed by the tenderer or his duly authorised representative.

The tender must be in conformity with the framework contract.

The conditions for the work are specified in the accompanying draft Specific Contract.

The contractors should ensure that resources are allocated to the execution of the contract throughout the whole duration of the project (including during summer breaks) to make sure that deliverables are produced on time.
3. **AWARD CRITERIA**

In accordance with section 5.4 of the Tender Specifications of the framework contract the responsible service within the contracting authority will evaluate the offers and select the actual Contractor based on the following approach.

a) Technical assessment

The contracting authority will calculate a technical score for each proposal submitted based on the following technical criteria:

<table>
<thead>
<tr>
<th>Technical award criteria</th>
<th>Maximum score</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Relevance, coherence, structure</td>
<td>10</td>
<td>6</td>
</tr>
<tr>
<td>2. Management approach, including quality control, risk management, dealing with conflict of interest, ethical behaviour</td>
<td>10</td>
<td>6</td>
</tr>
<tr>
<td>3. Composition of the team and their knowledge and experience, allocation of financial and human resources, adequacy of team structure, roles and responsibilities in the team</td>
<td>30</td>
<td>18</td>
</tr>
<tr>
<td>4. Choice, relevance, quality, adequacy, and depth of methodology proposed</td>
<td>30</td>
<td>18</td>
</tr>
<tr>
<td>5. Choice, relevance, extent and adequacy of the data sources / collection and analysis</td>
<td>20</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>60</td>
</tr>
</tbody>
</table>

b) Ranking of proposals

The contracting authority will determine the proposal offering the best price / quality ratio by calculating a total score out of technical and financial score.

\[
\text{score for tender } X = \frac{\text{cheapest price}}{\text{price of tender } X} \times 100 \times \text{price weighting (35 %)} + \frac{\text{total quality score (out of 100) for all award criteria of tender } X}{\text{quality criteria weighting (65 %)}}
\]

4. **PAYMENT AND STANDARD CONTRACT**

Payments under the contract shall be made in accordance with article I.6 of the Framework Contract.
5. **Price**

The maximum price for the services to be provided under the specific contract is EUR 600,000 (six hundred thousand). Offers above that amount will not be considered for evaluation.

A total fixed price expressed in EUR shall be included in the offer in accordance with point 5.4 of the Tender Specifications of the Framework Contract.

The contract prices shall be firm and not subject to revision.

The price offer for the specific contract will be determined by the unit prices for professional fees as set out in the price schedule submitted with the tender for the framework contract and annexed to the Framework Contract (see Section 4.3 of the Tender Specifications of the Framework Contract) and the number of days necessary to perform the tasks under the specific contract as described in the Tender Specifications for the specific contract.

The European Commission, pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union, is exempt from all duties, taxes and dues, including value added tax (VAT).

Such charges may not therefore be included in the calculation of the price quoted.

VAT 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.

For those countries where national legislation provides an exemption by means of reimbursement, the amount of VAT is to be shown separately. In case of doubt about the applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Commission is exempt from VAT.

The type of costs included in each price offer must fall within the scope of each specific request for services and terms of reference.

The part of each specific contract that the tenderer intends to subcontract shall be precisely indicated and detailed.

6. **Contract Award**

The contract will be awarded to the most economically advantageous tender. This will be determined on the basis of the ratio between the total number of points and the total price, as described in point 3 above.

7. **Confidentiality**

All non-published materials given to the Contractor by Directorate General for Communications Networks, Content and Technology or other services of the European Commission are strictly confidential. The Contractor will not allow information to be divulged to other parties or entities unless permission has been given by the Commission.
8. **VALIDITY OF THE OFFER**

3 months from the deadline for the submission of offers.

9. **SUBCONTRACTING**

Subcontracting is subject to the provisions of Article II.10 of the framework contract.

Subcontracting part of the tasks to be performed under a specific contract implementing lot including for the data gathering and analysis LOT 1 of the Framework Contract shall require the previous written agreement of DG CONNECT’s Unit D2: Policy Implementation and Planning. DG CONNECT may authorise subcontracting in duly justified cases.

10. **DISCLAIMER**

The following phrase is to be prominently displayed on the cover of all reports and deliverables:

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