



Tender Dossier

Procurement of Consulting Services

Support to the Digital Society Dimension of the SEE 2020 Strategy

Reference: 04-016

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1. SUBJECT OF THE TENDER

Support to the Digital Society Dimension of the SEE 2020 Strategy

Period of Services: x April 2016 - x June 2016

Field of Expertise: Electronic communications and information and communications technologies

Price ceiling: 70.000 (Bids indicating a price above this threshold shall not be considered)

2. TIMETABLE

ACTION	DATE	TIME
Publication of the Tender	02.03.2016	16:00
Deadline for any clarification requests to the Contracting Authority	17.03.2016	15:00
Last date on which clarifications are issued by the Contracting Authority	24.03.2016	15:00
Deadline for submission of bids	04.04.2016	12:00
Tender Opening Session	04.04.2016	15:00

3. PARTICIPATION

Participation in this tender procedure is open to the **respective legal entities or individual consultants/experts within bidding consortia**. The bidder should have **substantial international experience** in conducting consultancy services in the area of **electronic communications and information and communications technologies**.

Bidding consortia of individual consultants/experts participating in this tender must indicate the members and show how the work is divided between them. Specifically, all members must name the **team leader** and authorise this member to represent the consortium and receive payments on behalf of the other members. A corresponding written authorisation, power of attorney must be attached to the bid.

With the submission of an offer, the bidder, or bidding consortium, accepts the contents and principles of Annex II Service Tender Submission Form and Annex III Statement of Exclusivity and Availability. If the said contents and principles of the Forms are violated by the bidder or the bidding consortium, the RCC Secretariat reserves the right to exclude the bid.

4. CONTENTS OF BIDS

The offers, all correspondence and documents related to the tender exchanged by the bidder and the Contracting Authority must be written in English.

Supporting documents and printed literature furnished by the bidder may be in another language, provided they are accompanied by a translation into the language of the procedure. For the purposes of interpretation of the tender, the language of the procedure will prevail.

5. TECHNICAL OFFER

The Technical Offer must include the following documents:

- Company profile including a brief description (up to 2 pages) of the company. In case of a bidding consortium, the team leader should submit the profile of the consortium;
- Copy of Company's Registration Certificate (in case of legal entities). In case of a bidding consortium, a corresponding written authorisation, power of attorney is accordingly treated;
- Financial records - company's balance sheet and profit-and-loss statement for the past 2 years (only in case of legal entities);
- CV of the team leader and experts of the project team, outlining relevant knowledge and experience as described in Annex I Terms of References, along with contact details of referees;
- An outline Work Programme of a maximum of 5 pages, describing the main issues, sources of information to be used, research tools and methodology with a timeline to be employed by the consultants/experts to achieve the tasks and the budget proposal, as described in Annex I Terms of Reference;
- List of references for relevant activities implemented over the past 5 years demonstrating relevant experience in the subject matter;
- Service Tender Submission Form (Annex II);
- Signed Statements of Exclusivity and Availability (Annex III).

6. FINANCIAL OFFER

The proposed offer should include daily fee rate for consulting services; the fee rates should be broadly consistent with the EU framework rates for these types of professional services.

The financial offer should reflect the following:

- All figures should be expressed in EUR;
- VAT amount, if applicable, should be presented.

7. PERIOD DURING WHICH BIDS ARE BINDING

Bidders are bound by their bids for 90 days after the expiry of deadline for the submission of bids. In exceptional cases, before the period of validity expires, the Contracting Authority may ask bidders to extend the period for a specific number of days, which may not exceed 20 days.

8. ADDITIONAL INFORMATION BEFORE THE DEADLINE FOR SUBMISSION OF BIDS

Bidders may submit questions in writing to the following contact: ProcurementforRCC@rcc.int until **17.03.2016, 15.00, Central European Time**.

No informative meeting is foreseen.

No site visit is foreseen.

9. SUBMISSION OF BIDS

Bids must be submitted by **04.04.2016 by 12.00 Central European Time**, via e-mail to ProcurementforRCC@rcc.int providing the bid is received by the above date and time.

Or

Hand delivered directly to the Contracting Authority to the following address:

Regional Cooperation Council Secretariat
Attention to: Administration Department
Building of the Friendship between Greece and Bosnia and Herzegovina
Trg Bosne i Hercegovine 1/V
71000 Sarajevo
Bosnia and Herzegovina

Bids submitted after the deadline for submission will not be considered.

Bids must be submitted using the double envelope system, i.e. in an outer parcel or envelope containing 2 separate, sealed envelopes, one bearing the words "**Envelope A - Technical Offer**" and the other "**Envelope B - Financial Offer**".

Any infringement of these rules (e.g. unsealed envelopes or references to price in the technical offer) is to be considered a breach of the rules and will lead to rejection of the bid.

The outer envelope should carry the following information:

- Address for submission of bids indicated above;
- Reference code of the tender procedure to which the bidder is responding: **Tender No. 04-016;**
- Indicate reference number;
- Words "Not to be opened before the opening-evaluation session";
- Name of the bidder.

10. TENDER OPENING SESSION

Tenders will be opened at **15:00 Central European Time** on the **04.04.2016**. Bidders wishing to attend the opening of the tenders are asked to notify the department responsible for managing this procurement procedure no later than 2 working days before the tender opening date by e-mail: ProcurementforRCC@rcc.int

Up to 2 representatives per a bidder may attend the tender opening session. The names of the persons attending the opening of the tenders must be given in the notification. Bidders failing to give notification will automatically be refused access to the opening.

11. WITHDRAWAL OF BIDS

Bidders may alter or withdraw their bids by written notification prior to the deadline for submission of bids. No bid may be altered after this deadline.

12. COSTS FOR PREPARING BIDS

No costs incurred by the bidder in preparing and submitting the bid shall be reimbursable. All such costs shall be borne by the bidder. In particular, if proposed experts were interviewed, all cost shall be borne by the bidder.

13. EVALUATION OF TECHNICAL AND FINANCIAL OFFERS

The technical and financial offers are evaluated in accordance with the following criteria:

EVALUATION GRID	Maximum score
A. Technical Offer (A.1+A.2+A.3)	100
A.1. Track record, references and general experience of the bidder: General work experience; evidence of other contracts with the size comparable with the size of tender; experience with clients comparable to the Contracting Authority.	20
A.2. Quality and professional capacity of the team: CVs satisfy the criteria set forth in the Terms of Reference and demonstrate professional capacity and experience required; quality of the team inspires confidence.	40
A.3 Quality of an outline Work Program: Bidder provided a clear outline of the work to be executed with a sound methodology; main challenges identified; the process is clear and the proposed use of resources adequate.	40
B. Financial Proposal/ cheapest price has maximum score	100

Score for offer X =

A: [Total quality score (out of 100) of offer X / 100] * 80

B: [Cheapest price / price of offer X] * 20

When evaluating the financial offer, any arithmetical errors are corrected without penalty to the bidder such that, if applicable, where there is a discrepancy between a fee rate and the

total amount derived from the multiplication of the fee rate by the corresponding number of working days, the fee rate as quoted shall prevail, unless in the opinion of the Evaluation Committee there is an obvious error in the fee rate, in which event the total amount as quoted shall prevail and the fee rate shall be corrected.

14. SELECTION OF THE MOST FAVOURABLE BIDDER

Selection of the most favourable bidder will be internal, in accordance with defined evaluation and award criteria and the RCC's procedures.

The best value for money is established by weighing technical quality against price on a 80/20 basis.

In addition to the results of the technical and financial evaluation, competencies based interview will be held with the selected bidder.

The contract will be awarded to the highest qualified bidder based on the skills and expertise of the proposed project team, the quality of the technical proposal, i.e. concept note, and the cost effectiveness of the financial offer.

15. INFORMATION ON SELECTION OF THE MOST FAVOURABLE BIDDER

The RCC Secretariat shall inform candidates and bidders of decisions reached concerning the award of the contract as soon as possible, including the grounds for any decision not to award a contract for which there has been competitive tendering or to recommence the procedure.

Standard letter of thanks for participation for unsuccessful bidders shall be sent within 15 days after the contract is signed with the awarded bidder.

The candidates and bidders wishing to receive a feedback may send a request within 15 days after receipt of the standard letter of thanks.

The request may be sent to the e-mail address ProcurementforRcc@rcc.int or to the address of the RCC Secretariat:

Regional Cooperation Council Secretariat
Attention to: Administration Department
Building of the Friendship between Greece and Bosnia and Herzegovina
Trg Bosne i Hercegovine 1/V
71000 Sarajevo
Bosnia and Herzegovina

16. GROUNDS FOR EXCLUSION

Candidates or bidders will be excluded from participation in a procurement procedure if it is known that:

- (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 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 judgment 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 judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity.

Contracts may not be awarded to candidates or bidders who, during the procurement procedure, are:

- (a) Subject to a conflict of interest;
- (b) Guilty of misrepresentation in supplying the information required by the Contracting Authority as a condition of participation in the contract procedure or fail to supply this information.

17. ADMINISTRATIVE AND FINANCIAL PENALTIES

Without prejudice to the application of penalties laid down in the contract, candidates or bidders and contractors who have been guilty of making false declarations or have been found to have seriously failed to meet their contractual obligations in an earlier procurement procedure will be excluded from the award of all contracts and grants financed by the RCC for a maximum of 2 years from the time when the infringement is established as confirmed after an adversarial procedure with the contractor.

18. CONFIDENTIALITY

The entire evaluation procedure is confidential, subject to the Contracting Authority's policy on access to documents. The Evaluation Committee's decisions are collective and its deliberations are held in closed session. The members of the Evaluation Committee are bound to secrecy.

The evaluation reports and written records, in particular, are for official use only.

19. SIGNATURE OF CONTRACT(S)

The successful bidder will be informed in writing that their tender has been accepted.

The selected bidder is expected to sign and date the contract and return it to the Contracting Authority within 7 days from the receipt of the contract already signed by the Contracting Authority. Other candidates will be informed that their bids were not accepted by means of a standard letter.

The selected bidder will be awarded with contract for services covering the entire period.

Contract proposal is not provided at this stage.

General Terms and Conditions for the Purchase of Services are provided in Annex V.

20. CONFLICT OF INTEREST

The Contractor shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the contract must be notified in writing to the

Contracting Authority without delay.

The Contracting Authority reserves the right to verify that such measures are adequate and may require additional measures to be taken if necessary. The contractor shall ensure that its staff, including its management, is not placed in a situation which could give rise to conflict of interests. The Contractor shall replace, immediately and without compensation from the Contracting Authority, any member of its staff exposed to such a situation.

The Contractor shall refrain from any contact which would compromise its independence or that of its personnel. If the Contractor fails to maintain such independence, the Contracting Authority may, without prejudice to compensation for any damage which it may have suffered on this account, terminate the contract forthwith.

The Contractor shall after the conclusion or termination of the contract, limit its role in connection with the project to the provision of the services. Except with the written permission of the Contracting Authority, the Contractor and any other Consultant/Expert, contractor or supplier with whom the Contractor is associated or affiliated shall be disqualified from the execution of works, supplies or other services for the project in any capacity, including tendering for any part of the project.

Civil servants and other agents of the public administration of the RCC Participants, regardless of their administrative situation, shall not be recruited as experts in contracts financed by the RCC Secretariat.

The Contractor and anyone working under its authority or control in the performance of the contract or on any other activity shall be excluded from access to RCC Secretariat financing available under the same project unless they can prove to the Contracting Authority that the involvement in previous stages of the project does not constitute unfair competition.

21. APPEALS PROCEDURE

Bidders believing that they have been harmed by an error or irregularity during the award process may petition the RCC Secretariat directly. The RCC Secretariat must reply within 15 days of receipt of the complaint.

The appeal request may be sent to the e-mail address ProcurementforRcc@rcc.int or to the address of the RCC Secretariat:

Regional Cooperation Council Secretariat
Attention to: Administration Department
Building of the Friendship between Greece and Bosnia and Herzegovina
Trg Bosne i Hercegovine 1/V
71000 Sarajevo
Bosnia and Herzegovina

22. CANCELLATION OF THE TENDER PROCEDURE

In the event of cancellation of the tender procedure, bidders will be notified of the cancellation by the Contracting Authority. If the tender procedure is cancelled before the outer envelope of any tender has been opened, the unopened and sealed envelopes will be returned to the bidders.

Cancellation may occur where: the tender procedure has been unsuccessful, i.e. no qualitatively or financially worthwhile bid has been received or there is no response at all; the economic or technical data of the project have been fundamentally altered; exceptional circumstances or force majeure render normal performance of the contract impossible; all technically compliant bids exceed the financial resources available; there have been irregularities in the procedure, in particular where these have prevented fair competition.

ANNEX I: TERMS OF REFERENCE

TERMS OF REFERENCE:	Study on roaming services policies in the Western Balkans and legal and market impact assessment of the effects and future sustainable prospects of the Regional Roaming Agreement
Title:	Support to the Digital Society Dimension of the SEE 2020 Strategy
RCC Department:	Programme Department
Reference Number:	04-016
Starting Date:	x April 2016
Reporting to:	RCC Secretariat
Duration:	x April 2016 - x June 2016

I BACKGROUND

Purpose

The purpose of the consultancy is to prepare a legal, institutional and policy analysis of the roaming services' policies in the Western Balkans region and a legal and Market Impact Study of the effects and future sustainable prospects of the Regional Roaming Agreement (RRA), signed between The Former Yugoslav Republic of Macedonia, Republic of Serbia, Montenegro and Bosnia and Herzegovina. The Market Impact Study will offer legal analysis regarding the regulation of the roaming price caps in the signatory parties and the entire WB region, an overview of the market developments related to the volume of traffic, as well as an insight into the effects on revenues and methods of compensations by the operators of public electronic communication networks and services. The Study will ideally offer a methodology for roaming prices calculation. Most importantly it will: provide overall recommendations as policy inputs for future definition of policies for roaming services in the region; define recommendations and a roadmap aimed at furthering the legal basis and ensuring the market-based sustainability of the roaming policies and the RRA, offer overviews on the perspectives for its further extension to other interested parties.

Background Information

The recognition of the important role that international mobile roaming services play in facilitating economic and social interactions in areas such as trade and travel has significantly grown in prominence in the past decade.

As a result, the past decade has evidenced a number of initiatives and arrangements¹ aimed at addressing roaming, with the most significant developments occurring within the EU. The progressive liberalisation of communication services taking place in the EU has brought forward increased competition with wider implications in terms of increased connectivity, use of communication services, lower prices and innovation. Addressing the roaming policy through the successive Roaming Regulations, a complete ban on roaming charges for using mobile phones is expected to take effect in the EU and in the EEA countries in June 2017.

The comparison between the retail and wholesale prices paid by the end-users in the WB region and those in the EU when roaming highlight the significantly higher charges for roaming services (averaging 3-5 times more) paid in the WB region.

The favourable international context which saw prolific initiatives on effective regulation of roaming, coupled with the reality of some of the highest roaming charges paid in the WB region has spurred an intense regional cooperation dynamics in the WB region, highlighting the political commitment to reduce the roaming charges. The regional cooperation dynamics has peaked with the signing of the Regional Agreement on Reducing the Prices of Roaming Services on Public Mobile Communication Networks by the ministers responsible for electronic communications from: Bosnia and Herzegovina, The Former Yugoslav Republic of Macedonia, Montenegro and Republic of Serbia (29 September 2014, Budva).

In response to the Joint Ministerial Declaration endorsed² at the e-SEE Initiative³ Ministerial Conference (30 September 2015, Pržno, Montenegro) which acknowledged and welcomed the recent efforts of some of the Western Balkan governments to reduce the roaming charges, the Regional Cooperation Council (RCC) was invited to commission an analysis of the Regional Roaming Agreement, from a market regulation point. The assignment also reflects the last EU's 2015 Enlargement Strategy⁴, which notes that “the Regional Cooperation Council and the countries, through the e-SEE initiative, have already started working on concrete cooperation in the ICT and electronic communications field, such as a roaming-free zone in the Western Balkans“. In order to support the efforts of the Western Balkan governments in implementation of the RRA, the RCC has initiated its efforts aimed at outlining policy recommendations for sustainable roaming policies, improving the legal framework on roaming services and furthering the RRA's sustainability through commissioning a legal and Market Impact Study on the effects and future sustainable prospects of the region's roaming policies and the Regional Roaming Agreement.

¹ Arab Regulators for Telecommunications (AREGNET) concluded a set of recommendations on international mobile roaming charges; APEC-Tel outlined draft Guidelines on the Provision of Consumer Information on International Mobile Roaming; OECD has also issued policy advice on roaming¹ providing a toolset of policy options and regulation:

<http://acts.oecd.org/Instruments/ShowInstrumentView.aspx?InstrumentID=271&Lang=en&Book=False>

² BiH has expressed its conditional endorsement until the completion of its internal procedures

³ The aim of Electronic South Eastern Europe (e-SEE) Initiative, constituted in 2001, is to better integrate SEE economies into the global, knowledge-based economy by regionally supporting the development of Information Society

⁴ COM(2015) 611 final

Regional Context

The Regional Roaming Agreement and the roaming price caps that are in force as of 30 June 2015 in the four WB economies have resulted from a number of prior preparatory steps undertaken in the WB regional context. The key preceding milestones have, *inter alia*, included the following:

- The initiative for regional roaming was presented for the first time by the Agency for Electronic Communications of The Former Yugoslav Republic of Macedonia at the plenary meeting of BEREC, held in Vienna in 2012;
- 19 June 2013 - White Paper on Roaming Regimes in The Former Yugoslav Republic of Macedonia, Serbia and Montenegro prepared and sent to EC;
- 03 July 2013, Skopje - Joint letter of line Ministers for Information Society of The Former Yugoslav Republic of Macedonia, Serbia and Montenegro signed and addressed to DG CONNECT asking for the extension of EU roaming tariffs for the citizens of the three economies when travelling to the EU;
- 03 October 2013, Budva - The Former Yugoslav Republic of Macedonia, Serbia and Montenegro signed an Agreement for cooperation in the area of IT. During the signing ceremony, the responsible line Ministers raised the initiative for calling upon the electronic communications regulators to review the opportunity for the citizens of the three economies to use levelled roaming services;
- 29 September 2014, Budva - Agreement on Reducing the Prices of Roaming Services on Public Mobile Communication Networks among Ministers responsible for the area of electronic communications from: Bosnia and Herzegovina, The Former Yugoslav Republic of Macedonia, Montenegro and Republic of Serbia. The Agreement envisages tariff reduction to the level of EU. The parties emphasized the openness of the Agreement to the future accession of any interested party;
- 25 December 2014, Belgrade - Decision on roaming tariff reduction adopted by the Serbian Regulator;
- 10 March 2015, Skopje - Following an amendment to the Law on Electronic Communications in The Former Yugoslav Republic of Macedonia, enabling the legal pre-conditions for the regulator to determine the maximum prices of the services of mobile operators offered in roaming to the end users coming from economies with which The Former Republic of Macedonia has signed an Agreement to reduce the prices of roaming services on a reciprocal basis and in a manner stipulated by the Agreement and after one month of public consultations, the Regulator in The Former Yugoslav Republic of Macedonia adopted the Decision on setting the maximum prices for roaming services. The Decision set the maximum prices and specified the reduction dynamics. The prices should be applied on the principle of reciprocity, first with amendments to the contracts for roaming services between operators in these economies and later at the retail level;

- 11 March 2015, Podgorica - The Montenegrin regulator introduced an administrative Decision to implement the RRA. However, the three operators in Montenegro went to court against the administrative decision in order to address the claimed illegitimate implementation of the roaming reduction by the regulator who is not legally empowered. The operators won the case and the administrative court suspended the Decision in June. Nevertheless, the regulator reacted with the introduction of an amended administrative Decision to implement the Agreement. This new Decision was published shortly before it came into effect for operators. A new lawsuit has been initiated against the second Decision. Amendments to the Law are currently in procedure;
- 11 June 2015, Sarajevo - The Council of the Communications Regulatory Agency adopted the Decision on establishing the maximum prices for roaming services in public mobile communication networks;
- 30 June 2015 - Decisions for the new tariffs are implemented by all MNOs in the economies that have signed the RRA and new reduced prices are applied for wholesale and retail roaming service for the subscribers of mobile services in Serbia, Montenegro, Bosnia and Herzegovina and The Former Yugoslav Republic of Macedonia and the roaming prices for voice services in mobile telephony, short messaging and Internet traffic are to be progressively reduced to the level of EU countries;
- 13 November 2015, Skopje - A meeting regarding RRA took place with representatives from the four regulatory bodies to review the status of implementation of the roaming regulation in the respective economies. The Serbian regulatory authority reported that one operator in Serbia appealed to the Constitutional Court. The NRA from The Former Yugoslav Republic of Macedonia announced a presentation of the RRA at the next IRG meeting in London with the purpose of highlighting the importance of the Agreement. All four signatory parties reiterated that the Agreement remained open to any interested parties willing to join.

EU Level Context

The EU level context in the area of roaming has been determined by the following key milestones:

- The European Commission's first rules to address overcharging in roaming prices came in 2007, with the 'Eurotariff' capping maximum prices for phone calls made and received while abroad. These rules have since been periodically reviewed and reformed, with further reductions in price caps and automatic protections against data roaming bill shocks. In the context of the regional roaming decision and the agreed three dates for wholesale and retail caps, the four regulators took over the Eurotariffs caps from the years 2012 (for 2015), 2013 (for 2016) and 2014 (for 2017).

- 11 September 2013, the European Commission adopted a legislative package for a ‘Connected Continent: Building a Telecoms Single Market’ aimed at building a connected, competitive continent and enabling sustainable digital jobs and industries.
- Following the European Parliament’s final approval of the new telecoms package on 27 October 2015, a complete ban on roaming charges for using mobile phones (calling, sending text messages and using the mobile internet abroad in the EU and in EEA countries) will take effect in June 2017. No additional surcharge will exist on the condition that the wholesale roaming market is adequately reformed before this date. From 30 April 2016 roaming surcharges (added to the price paid at home) must not exceed: €0.05 per minute for outgoing voice calls, €0.02 for text messages (SMS), or €0.05 per megabyte of mobile internet use. The cap on charges for incoming voice calls will be determined later this year and it is expected to be considerably lower than for outgoing calls. If operators can prove that they cannot recover their costs and that this affects domestic prices, national regulatory authorities may authorise them to impose minimal surcharges in exceptional circumstances to recover these costs. The exact details for this will be defined by the Commission and telecoms regulators.
- The overall EU telecoms framework is composed of several instruments. The original instruments comprising EU’s regulatory framework for electronic communications networks and services are: Directive 2002/21/EC (Framework Directive), Directive 2002/19/EC (Access Directive), Directive 2002/20/EC (Authorisation Directive), Directive 2002/22/EC (Universal Service Directive), and Directive 2002/58/EC (Directive on privacy and electronic communications) (together referred to as ‘the Framework Directive and the Specific Directives). The original regulatory framework was supplemented with other instruments, such as Regulation 1211/2009 (BEREC Regulation), Regulation 717/2007 (Roaming Regulation), Directive 2014/61 (Broadband cost reduction) and several Commission decisions such as Decision 676/2002/EC of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision), Decision 2002/622/EC of 26 July 2002 establishing a Radio Spectrum Policy Group (RSPG) and Decision 243/2012/EU of 14 March 2012 establishing a multiannual radio spectrum policy programme (RSPP). Along with the above referred directives, regulations and decisions, the framework is further complemented by soft law instruments that include Commission Recommendations relevant for the telecoms sector and are indispensable for the application of the Regulatory Framework: Recommendation: 2014/710 (relevant product and service markets), Recommendation 2010/572 (regulated access to Next Generation Access Networks), Recommendation 2013/466 (non-discrimination and costing methodologies) and Recommendation 2009/396 (termination rates).

II DESCRIPTION OF RESPONSIBILITIES

Objectives and Scope of the Assignment

The main objective of the assignment is to deliver a legal, institutional and policy analysis of the roaming services' policies in the WB region, as well as a legal and Market Impact Study on the effects and prospects of the current Regional Roaming Agreement and its future sustainable application. The Study is expected to comprehensively address the following:

- overview of legislative processes and institutional frameworks underpinning the policies on roaming services in the entire WB region and the Regional Roaming Agreement;
- assessment of consultation processes (aspects of inclusiveness and transparency) undertaken throughout the key milestones leading to the operationalisation and subsequent implementation of the Regional Roaming Agreement, as well throughout the overall roaming policy making;
- identification of best legislative and consultative roaming practices from the region, EU and global context;
- estimates of the impact of the current Roaming Agreement (based on traffic and revenue data from regulators and operators);
- assessment of applied methodologies for estimation of roaming prices and the underlying costs, both within the RRA as well as the methodologies in the entire WB region (i.e. whether wholesale caps were set at a level that allows cost recovery while taking into account different cost bases across all national markets and whether retail caps were set at a level that would both serve as a safeguard for consumers and at the same time would allow sufficient economic space between wholesale and retail caps for competition to develop);
- assessment of potential application of recoup strategies by operators;
- projection of net effects from the tariff reduction dynamics as outlined in the Decisions of the Regulators in the four economies, as well as from eventual roaming tariff elimination;
- analysis of potential impact of the policies on effective regulation of roaming and the RRA on the international legal obligations, the wider trade policies, WTO obligations and commitments;
- assessment of initial RRA's challenges encountered (e.g. court proceedings);
- identification of short- to long-term capacity building needs of regulators and line ministries (for costing methodologies, market impact assessments, consultation aspects, definition of legislative frameworks and future policy and regulatory interventions, etc.);

- policy recommendations to further the process of defining and implementing sustainable roaming policies, as well as for furthering the current Roaming Agreement and ensuring its long-term proper application;
- assessment of prospects for sustainable end of roaming charges in the region, future policy and regulatory options and roadmaps and identification of potential 'fair use safeguard' to 'prevent abusive uses' implementing measures;
- assessment of prospects for region-wide sustainable policies on roaming services, as well as potential geographic extension of the Regional Roaming Agreement to the entire WB region.

Specific Tasks

- Analysis of legal and institutional frameworks underpinning the roaming policies in the WB region and the Regional Roaming Agreement

The Market Impact Study (hereinafter: MIS) will describe the current legislative and institutional framework of the four signatory economies (in individual chapters), as well as the legal, institutional and policy framework in the remaining WB economies; consider whether the national electronic communication acts of each economy were suitably amended to meet the obligations of the roaming policy; examine if a Decision or other relevant act that contributed towards enforcing the RRA was adopted and analyse their contents, as well as the accompanying consultation processes.

This part will particularly address the following:

- Legal, institutional and policy overview in the area of roaming services in the entire WB region;
 - Whether the legislative framework set in the WB economies is sufficient to meet the aims and goals of efficient roaming policy regulation and the Regional Roaming Agreement;
 - If the study assesses potential prospects for furthering, the MIS will recommend clear amendments to the legislative and policy frameworks and will duly justify the amendments based on the best regional and EU practices, placing the RRA in a suitable EU context;
 - To examine whether the RRA principles meet the EU roaming principles that lead towards the Digital Single Market and to recommend potential solutions so that the future roaming policies/RRA can be fully aligned with the EU strategic documents;
 - Whether the coordinative body was set up pursuant to Article 5 of the RRA and is operational, as well as to examine its role in ensuring sustainability of the Agreement.
- Analysis of the existing market data pertaining to the application of roaming policies and the Regional Roaming Agreement and key developments in the WB regional roaming market

Up until the enforcement of the RRA, the end users of electronic communications services in the region paid between 3 and 5 times more expensive services in roaming than the end users in the EU. Roughly, the expenses for one minute voice service in roaming were around five times higher than the EU citizens would pay for, around three times higher for sending SMS in roaming and around thirty times higher for 1 MB of internet in roaming. The MIS will provide analysis through comparison of the traffic in roaming in the signatory parties prior to and after the RRA has entered into force:

- the results of Q3/2014 (July, August, September) to be compared with the results of Q3/2015;
 - the results of Q4/2014 (October, November, December) to be compared with the results of Q4/2015;
 - the results have to refer to incoming and outgoing voice calls, SMS and mobile internet in roaming, i.e. data, voice and SMS per economy, before and after the RRA, contrasted against the volume of traffic;
 - The MIS should examine whether the implementation of the RRA had impact on the prices in domestic traffic;
 - The MIS should examine the methodologies applied to estimate roaming prices and suggest costing methodologies, and explore if other market research studies with relevance to roaming used similar parameters;
 - The MIS will also examine the current traffic, prices and trends in the entire WB region.
- Consultations on the scope and results of the Market Impact Study with the key line ministries, regulators and operators in the entire WB region

The Market Impact Study will provide for transparent and inclusive approach in obtaining, defining and analysing its data, assessments, results and recommendations. Therefore, consultations with the relevant authorities and stakeholders are expected throughout the entire period of elaboration of the Study, especially at the beginning in the process of drafting and for final comments and remarks. The consultations undertaken in the process of elaborating the legal and market analysis are expected to address the challenges in WB region's roaming policy setting and in implementing the RRA, and to provide recommendations for future sustainable roaming policies, as well as for furthering the current Regional Roaming Agreement and ensuring its long-term sustainable and market-based application. The input from the relevant authorities will also serve as a basis to investigate the prospects for sustainable geographic extension of roaming policies in the WB region and the RRA.

- The Study will in particular consider:

Legislation

- Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent – COM (2013) 627;

- Regulation No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union;
- Commission Implementing Regulation No 1203/2012, on the separate sale of regulated retail roaming services within the Union;
- Regulation (EC) No 544/2009, amending Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community and Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services;
- Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC.

Analysis

- Impact assessment SEC(2011) 870 final: Impact assessment of policy options in relation to the Commission's Review of the functioning of regulation (EC) No 544/2009 of the European Parliament and of the Council of 18 June 2009 on roaming on public mobile telephone networks within the Community;
- Impact assessment SEC(2006) 925: Impact assessment of policy options in relation to a Commission proposal of a Regulation of the European Parliament and of the Council on roaming on public mobile networks within the Community;
- International Roaming BEREC Benchmark Data Report July 2012 – March 2013, from 16/09/2013: The latest report prepared in compliance with Article 19(4) of the Roaming Regulation, which requires BEREC to collect data regularly from the National Regulatory Agencies (NRAs) on the development of retail and wholesale charges for voice, SMS and data roaming services;
- BEREC International Roaming Compliance Report (Regulation (EU) No 531/512 of the European Parliament and of the Council of 13 June 2012 on roaming) from 30/09/2013: provides information on the level of compliance by the mobile operators across the EU EEA area with the provisions set out in the 2012 Roaming Regulation (3rd Roaming Regulation);
- BEREC 2010 report on the state of roaming market, containing the advice of the Body of European Regulators for Electronic Communications (BEREC) on the functioning and possible extension of regulation of international mobile roaming services and the entailed methodological overview of how roaming specific costs are estimated;
- International Roaming Regulation-BEREC Guidelines on Roaming Regulation (EC) No 531/2012, Regulation (EU) No 531/2012 of the European Parliament and of the Council;

- Eurobarometer – roaming mobile communications, 2011: The Special Eurobarometer on roaming revealed that about three out of four Europeans using a mobile phone continued to limit their mobile voice calls abroad concerned about the costs;
- Latest articles on roaming, Euractiv, 2013;
- Kroes stands firm in roam charges fight, FT Online, 6 October 2013;
- Domestic regulators criticise EU telecoms reform plans, FT Online, 17 September 2013;
- EU telecoms regulation: more bark than bite, FT Online, 15 September 2013.

EC documentation

- EC Infographic: New Roaming Plan 2013;
- SPEECH/13/484 of Neelie Kroes, Vice-president of the European Commission to the Internal Market and Consumer Protection (IMCO) Committee, European Parliament on 30/05/2013, entitled: The politics of the completing the telecoms single market;
- SPEECH/13/787 of Neelie Kroes, Vice-president of the European Commission at the FT-ETNO Summit ‘One Single Telecom Market for Europe?’, 8 October 2013 in Brussels;
- Digital Agenda for Europe target 101 for roaming, where ‘the difference between roaming and national tariffs should approach zero by 2015’;
- Summary table of the roaming tariffs: showing what the regulations have brought about to date and the mobile roaming costs information in the EC ‘Your Europe’ site;
- What did the EU ever do for the mobile industry?: an EC short summary – MEMO/13/139 from 26/02/2013 on the main actions done in the mobile market.

EP documentation

- Committee ITRE/7/13786 report: European single market for electronic communications, 2013/0309(COD) (Awaiting committee decision);
- Parliamentary questions: 89 questions retrieved in the current legislature when doing a search on “roaming” and 72 when searching into the previous one (6th legislature);
- Review of the roaming regulation, EP Policy Department A, 2008.

Council documentation

- Council adopts new roaming rules, presse10362/12, from 20/05/2012;

- European Council Conclusions on the Digital Agenda for Europe - 24 and 25 October 2013.

International views and other stakeholders

- European Citizens' Initiative: one single tariff, 2013;
- Online stakeholder consultation on the mobile roaming system in the EU, EESC, 2013;
- Results from the EC public consultation SEC(2011) 870 final: see the stakeholders input analysis on section 1.4, pag.6;
- ITU High-Level Workshop on Regulatory and Economic Aspects of Roaming Geneva, Switzerland, September 2013;
- Study on International Mobile Roaming Services: Facilitating competition and protecting users (Advance copy), ITU, 2013;
- ITU report on Regulatory analysis of international mobile roaming services (March 2014);
- Guide for NRAs on International Mobile Roaming Cost analysis - Technical Paper 2015- ITU;
- International Mobile Roaming Agreements, OECD, 2013.

Lines of Communication

The Consultants will submit all reports and timesheets to RCC Secretariat for review and approval of deliverables. The Consultants will work closely with the RCC Secretariat experts from whom they will seek guidelines to efficiently conduct the Study and will provide them with all deliverables.

Timeframe

The Consultant/s is/are expected to use up to 100 expert days for this assignment, starting from x April 2016 and ending on x June 2016.

Deliverables	Due date (from mobilization)
Inception Report - will include assignment methodology, staffing and time schedule, and summary of the review of existing studies, data and market impact indicators	N+14 days
Report on first round of consultations and received feedback per authority/stakeholder	N+21 days

First draft of the Market Impact Study	N+28 days
Final Report containing the results from the final round of consultations	N+42 days
Presentation of the Study at a regional open event (to be decided by the RCC) and at the meeting of the Regional Roaming Platform	N+50 days
Final Draft of the Market Impact Study	N+59 days

Reporting

The Consultant will work under the direct guidance of and will report to the Senior Expert for Inclusive Growth and the SEE 2020 Coordinator.

III PROFILE AND COMPETENCIES OF THE TEAM MEMBERS

Qualifications:

Education:	<ul style="list-style-type: none"> ▪ University or advanced degree in electronic engineering, electronic communications and information and communications technologies, economy or law or other relevant field related to electronic communications policy
Experience:	<p>Qualifications and Skills Required</p> <ul style="list-style-type: none"> ▪ Theoretical knowledge and practical experience in electronic communications policy, ICT regulation, telecom market research ▪ Minimum of 10 years of relevant work experience for senior expert (team leader) and 5 years of relevant work experience for junior experts; working in/with international organisations on projects related to electronic communications/ ICT will be considered an asset ▪ Solid knowledge of electronic communication regulation ▪ Analytical skills and ability to conceptualise and write concisely and clearly ▪ Experience in working with indicators and statistical data, preparing reporting tables and charts, market research, etc. ▪ Communication and presentation skills and ability to work in an environment requiring liaison and collaboration with multiple actors

	including government representatives, regulators, businesses, operators, trade unions, civil society institutions, donors and other stakeholders
Language requirements:	<ul style="list-style-type: none"> ▪ Fluency in English, as the official language of the RCC. Any other language of the SEE is highly desirable
Other:	<ul style="list-style-type: none"> ▪ Familiar with MS Office applications, especially for data processing (Excel) ▪ Ability to be flexible and respond to changes as part of the review and feedback process

Core Values

- Demonstrates integrity and fairness by modelling RCC values and ethical standards;
- Displays cultural, gender, religion, race, nationality and age sensitivity and adaptability.

Core Competencies

- Demonstrates professional competence to meet responsibilities and post requirements and is conscientious and efficient in meeting commitments, observing deadlines and achieving results;
- Result-oriented; plans and produces quality results to meet the set goals, generates innovative and practical solutions to challenging situations;
- Communication: Excellent communication skills, including the ability to convey complex concepts and recommendations clearly;
- Team work: Ability to interact, establish and maintain effective working relations in a culturally diverse team;
- Ability to establish and maintain productive partnerships with regional and national partners and stakeholders.

IV QUALITY CONTROL

The Consultant should ensure an internal quality control during the implementing and reporting phase of the assignment. The quality control should ensure that the draft reports comply with the above requirements and meet adequate quality standards before sending them to stakeholders for comments. The quality control should ensure consistency and coherence between findings, conclusions and recommendations. It should also ensure that findings reported are duly substantiated and that conclusions are supported by relevant judgment criteria.

The views expressed in the report will be those of the contractor and will not necessarily reflect those of the Regional Cooperation Council. Therefore, a standard disclaimer reflecting this will be included in the report. In this regard, the expert may or may not accept comments and/or proposals for changes received during the above consultation process. However, when comments/proposals for changes are not agreed by the expert, he/she should clearly explain the reasons for his/her final decision in a comments table.

Quality Control by the Regional Cooperation Council

The Consultant outputs will undergo two external reviews. The first one will be reviewed in parallel by all relevant stakeholders, including the representatives of the Dimension Coordinator and the Regional Cooperation Council.

The final (second) draft will be reviewed by the Regional Cooperation Council taking account of the comments made by the different stakeholders, the Roaming Platform/Working Group and how the expert/s have handled these comments. The approved final report will be subject to a quality assessment by SEE 2020 Strategy Coordination Unit of the Regional Cooperation Council, upon whose endorsement the report would be distributed and made public.

ANNEX II: SERVICE TENDER SUBMISSION FORM

REF: 04-016

One signed original of this Tender Submission Form must be supplied.

1 SUBMITTED by:

	Name(s) and address(es) of the entity submitting this tender
Full Entity Name	

2 CONTACT PERSON (for this tender)

Name and Surname	
Entity Name	
Address	
Telephone	
Fax	
e-mail	

3 STATEMENT

[Name of the Entity] _____ hereby declares that we have examined and accepted without reserve or restriction the entire contents of the tender dossier for the tender procedure referred to above. We offer to provide the services requested in the tender dossier on the basis of supplied documentation subject of this tender, which comprise our technical offer and our financial offer.

This tender is subject to acceptance within the validity period stipulated in the instructions to tender.

Authorized person	
Signature	
Date	

ANNEX III: STATEMENT OF EXCLUSIVITY AND AVAILABILITY

REF: 04-016

By representing the Entity _____ we agree to participate exclusively in the above-mentioned tender procedure. We further declare that we are able and willing to work for the period(s) foreseen for the position for which our CVs have been included in the event that this tender is successful, namely:

Full Name	Available from (Date)	Available until (Date)	Acceptance by signature

ANNEX IV: BUDGET BREAKDOWN

REF: 04-016

No	Cost categories	Daily fee rate	Total Cost
...			
...			
...			
.			
2	TOTAL COSTS		
3	VAT (if applicable):		
	GRAND TOTAL (2+3):		

- Proposed daily fee rate for consulting services should be broadly consistent with the EU framework rates for these types of professional services.

**ANNEX V: GENERAL TERMS AND CONDITIONS FOR THE PURCHASE
OF SERVICES FOR THE REGIONAL COOPERATION COUNCIL
SECRETARIAT**

REF: 04-016