

DECISION № MC/2012/10

of the Management Committee of the Office of the Body of European Regulators for Electronic Communications (BEREC Office) on the appointment of external experts for the support in the implementation of the BEREC Office administrative procedures

The Management Committee of the BEREC Office,

HAVING REGARD to the Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office;

HAVING REGARD to Decision MC 10 (44) on the financial regulation applicable to the BEREC Office in conformity with the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Union, and, in particular, article 74b, on experts,

HAVING REGARD to article 179a of the Council Regulation No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Union (hereafter referred to as "the Financial Regulation", "FR"), as amended by Council Regulation N° 1995/2006 of 13 December 2006 and 265a, 119 and 128 of the Commission Regulation No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation (hereafter referred to as "the Implementing Rules", "IR"), as amended by Commission Regulation No 1261/2005 of 20 July 2005, by Commission Regulation No 1248/2006 of 7 August 2006 and by Commission Regulation N° 478/2007 of 23 April 2007;

HAVING REGARD to the annual plan of procurement procedures of the BEREC Office;

Whereas:

- (1) The BEREC Office, for the implementation of its planned procurement procedures, given its small size, may need, the assistance and support of high level external experts when it is both necessary to prepare complex procurement procedures and evaluate several offers (i.e.: IT-related services procurement procedures);
- (2) Because of the breadth and diversity of its covered tasks, the BEREC Office cannot always launch alone complex procurement procedures or can find difficult to evaluate highly complex offers.
- (3) Experts may be invited to carry out their tasks fully or partially at their home or place of work ("remote evaluation"), or on BEREC Office premises;
- (4) An independent expert is an expert who is working in a personal capacity and in performing the work, does not represent any organisation;
- (5) Experts are required to have skills and knowledge appropriate to the areas of activity in which they are asked to assist;
- (6) Experts shall be citizens of the European Union or of one of these countries with "observer" status under the BEREC Regulation;

- (7) Given its small size, the BEREC Office will not establish its own database of external experts, but it can invite and appoint experts from the databases of the Commission or other EU bodies, in accordance with article 74b of the Management Committee decision¹⁰ (44);
- (8) The list of experts to be used is to be decided by the Administrative Manager, under the supervision of the Management Committee;
- (9) The BEREC Office shall conclude a contract of external expert with each expert, based on a model adopted by the Administrative Manager through an internal administrative instruction (model contract for external experts);
- (10) The contract of external expert binds the expert to a code of conduct, establishes the essential provisions regarding confidentiality, and specifies, in particular, the description of work, the conditions of payment and reimbursement of expenses;
- (11) When appointing experts, the BEREC Office must take all necessary steps to ensure that they are not faced with a conflict of interest in relation to the assigned work on which they are required to give an opinion. To this end, experts are required to sign a declaration that no such conflict of interest exists at the time of their appointment and that they undertake to inform the BEREC Office if one should arise in the course of their duties. When so informed, the BEREC Office takes all necessary actions to remove the conflict of interest. In addition, all experts are required to confirm that they have no conflict of interest for each proposal that they are asked to examine at the moment of the evaluation. A model declaration shall be adopted by the Administrative Manager through an internal administrative instruction.

HAS DECIDED:

Article 1

Unless the BEREC Office decides to establish its own list of external experts and to launch its own call for expression of interest, the experts, for the purposes of this Decision, will be selected from valid lists drawn up by the Commission or other EU bodies.

Article 2

The tasks entrusted by the BEREC Office to an external expert shall involve:

- providing written technical and/or professional advice as requested by the Administrative Manager;
- notably, providing expertise to support the BEREC Office in public procurements procedures, evaluation of offers and other administrative functions.

Article 3

The fee to be paid to the external expert in a form of a lump sum for each full working day spent assisting the BEREC Office shall be determined by the Administrative Manager. The lump sum is not a remuneration.

Article 4

The Administrative Manager shall select experts from the lists mentioned in Article 1, taking into consideration the following criteria:

- A high level of expertise and competences for the tasks in question;
- An appropriate range of competencies;
- A reasonable gender balance;
- A reasonable distribution of geographical origins;
- Regular rotation of experts.

Article 5

The appointment of the expert is made through the signature of a contract between the expert as a natural person and the BEREC Office.

Article 6

For a given expert, all his appointments by the BEREC Office shall be for a duration not exceeding 100 working days per calendar year.

Article 7

If the expert is required to carry out the tasks away from home, in addition to the amount specified in Article 4, travel and subsistence expenses directly connected with execution of the tasks shall be reimbursed, behind decision of the competent authorizing officer, in accordance with the provisions of Management Committee Decision 2012/2 laying down the "Rules on the reimbursement of expenses incurred by people from outside the BEREC Office invited to attend meetings in an expert capacity" applicable to "private-sector experts".

Article 8

This Decision enters into force on the same day of its adoption by the Management Committee of the BEREC Office.

Done at Limassol, on 28 September 2012.

For the Management Committee

**Georg SERENTSCHY
BEREC Chair for 2012**