

Date: October 13, 2017

NOTICE INVITING EXPRESSION OF INTEREST FOR EMPANELMENT OF INSTITUTIONS / AGENCIES WITH CCI FOR CONDUCTING SURVEYS AND/OR UNDERTAKING ECONOMIC ANALYSIS OF MARKETS

The Competition Commission of India (CCI) proposes to prepare a panel of reputed institutions/agencies, to carry out surveys and economic analysis of markets for competition law cases. The selection of the institutions/agencies for empanelment shall be in accordance with the evaluation criteria mentioned in the Request for Expression of Interest (EoI) Document.

The institutions/agencies having the expertise and willingness to undertake surveys and economic analysis of markets, as and when referred by the CCI, are invited to submit their EoI in the prescribed format enclosed with the Request for EoI Document.

The EoI, in the prescribed format, should reach the undersigned **by 1800hrs on December 15, 2017**. Clarifications, if any, may be sought by writing to ecodivision@cci.gov.in **by November 30, 2017**. The objective, nature of work and other terms and conditions of empanelment shall be governed by the following Request for EoI Document.

Mohan R. Ronanki
Deputy Director (Economics)
Competition Commission of India
Hindustan Times House 18-20, Kasturba Gandhi Marg
New Delhi – 110001
Email: ecodivision@cci.gov.in

Request for Expression of Interest (EoI) for empanelment of institutes/ agencies for conducting surveys and/or economic analysis of markets for the competition law cases as required by the Competition Commission of India and the Director General, Competition Commission of India, as the case may be.

1. OBJECTIVE

- 1.1. Section 18 of the Act casts a duty on the Competition Commission of India (“the Commission”) to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interest of consumers and ensure freedom of trade carried on by other participants, in markets in India.
- 1.2. In the enforcement of sections 3, 4, 5 and 6 of the Act, the Commission considers various factors such as substitutability between goods and services from consumers’ perspective, price trends, conditions of demand/supply/competition in a particular geographic area, barriers to entry etc. Objective assessment of these factors requires primary level inputs from consumers/market participants and/or economic analysis of market structure and conduct of enterprises based on secondary data and research.
- 1.3. In view of this, the Commission proposes to empanel institutes/agencies of repute, which can conduct surveys to collect primary data and/or undertake economic analysis of markets based on secondary data, as and when needed by the Commission.

2. NATURE OF WORK

- 2.1. The work to be undertaken by the empanelled institutes/agencies can be categorised under the following two broad heads:
 - **Surveys**: Market surveys for collection and analysis of data on variables relating to consumer behaviour, local specification requirements, barriers to entry and exit, availability of substitutes to a relevant product etc. in the relevant market and any other factor as may be required on a case-by-case basis
 - **Microeconomic analysis of markets**: Economic analysis of markets based on secondary data as may be necessary for the enforcement of the Act.
- 2.2. The range of surveys required to be used for enforcement purpose may be summarised as below:
 - (a) Consumer Surveys: Detailed surveys to collect primary data on consumer preferences, consumer response to price changes etc. and analysis of the data to understand consumer choice, brand recognition and brand loyalty, switching cost, demand-side substitutability etc.

- (b) Strategy Surveys: Understanding the competitive strategies of firms in terms of pricing, vigour of competition in a particular market, agreements at different levels of production and distribution chain, competitive constraints faced by the firms in the relevant market, supply responses of non-merging firms to a merger etc. that may help in enforcement actions of the Commission
- (c) Market Surveys: Market surveys of shorter durations to understand the recent trends in the market and customer responses

2.3. The broad analytical frameworks in the economic analysis include:

- (a) Market Structure Framework: Identifying key market characteristics in terms of supplier, consumer and product or service
- (b) Consumer Choice Framework: Understanding the consumer preferences, biases that may affect switching, product selection etc.
- (c) Price Analysis Framework: Analysing profitability, customer acquisition costs, consumer affordability, price comparisons and trends, price concentration studies etc.
- (d) Regulatory framework: Studying policies/laws/regulations governing the sector/market in question from competition perspective.
- (e) Competition Concerns Framework: Studying the market structure, whether and how competition is limited, pricing structures such as bundling, cross-subsidies etc., barriers to entry into and exit from the market etc.
- (f) Any other factors that may have appreciable implications for competition

2.4. An inclusive list of factors that the Commission considers in different cases, as provided under sections 19(3), 19(4), 19(6), 19(7) and 20(4) of the Act, are given below:

2.4.1. The factors considered under section 19(3) of the Act while determining whether an agreement has an appreciable adverse effect on competition are:

- (a) Creation of barriers to new entrants in the market
- (b) Driving existing competitors out of the market
- (c) Foreclosure of competition by hindering entry into the market
- (d) Accrual of benefits to consumers
- (e) Improvements in production or distribution of goods or provision of services
- (f) Promotion of technical, scientific and economic development by means of production or distribution of goods or provision of services

2.4.2. The factors considered under section 19(4) of the Act while inquiring whether an enterprise enjoys a dominant position or not are:

- (a) Market share of the enterprise
- (b) Size and resources of the enterprise
- (c) Size and importance of the competitors
- (d) Economic power of the enterprise including commercial advantages over competitors
- (e) Vertical integration of the enterprises or sale or service network of such enterprises
- (f) Dependence of consumers on the enterprise
- (g) Monopoly or dominant position whether acquired as a result of any statute or by virtue of being a Government company or a public sector undertaking or otherwise
- (h) Entry barriers including barriers such as regulatory barriers, financial risk, high capital cost of entry, marketing entry barriers, technical entry barriers, economies of scale, high cost of substitutable goods or service for consumers
- (i) Countervailing buying power
- (j) Market structure and size of market
- (k) Social obligations and social costs
- (l) Relative advantage, by way of contribution to the economic development, by the enterprise enjoying a dominant position having or likely to have appreciable adverse effect on competition
- (m) Any other factor which the Commission may consider relevant for the inquiry

2.4.3. The factors considered under section 19(6) of the Act for determining the relevant geographic market are:

- (a) Regulatory trade barriers
- (b) Local specification requirements
- (c) National procurement policies
- (d) Adequate distribution facilities
- (e) Transport costs
- (f) Language
- (g) Consumer preferences
- (h) Need for secure or regular supplies or rapid after-sales services

2.4.4. The factors considered under section 19(7) of the Act for determining the relevant product market are:

- (a) Physical characteristics or end use of goods
- (b) Price of goods or services
- (c) Exclusion of in-house production
- (d) Existence of specialised producers
- (e) Classification of industrial products

2.4.5. The factors considered under section 20(4) of the Act for determining whether a combination would have the effect of or is likely to have an appreciable adverse effect on competition in the relevant market are:

- (a) Actual and potential level of competition through imports in the market
- (b) Extent of barriers to entry in the market
- (c) Level of combination in the market
- (d) Degree of countervailing power in the market
- (e) Likelihood that the combination would result in the parties to the combination being able to significantly and substantially increase prices or profit margins
- (f) Extent of effective competition likely to sustain in the market
- (g) Extent to which substitutes are available or are likely to be available in the market
- (h) Market share, in the relevant market, of the persons or enterprise in a combination, individually and as a combination
- (i) Likelihood that the combination would result in the removal of a vigorous and effective competitor or competitors in the market
- (j) Nature and extent of vertical integration in the market
- (k) Possibility of a failing business
- (l) Nature and extent of innovation
- (m) Relative advantage, by way of the contribution to the economic development, by any combination having or likely to have appreciable adverse effect on competition
- (n) Whether the benefits of the combination outweigh the adverse impact of the combination, if any

3. WHO CAN APPLY

3.1. The following institutes/agencies can submit Expression of Interest (EoI) for the proposed empanelment:

- i. Universities created by an Act of Central Legislature or State Legislature

- ii. Institutions of national importance created by an Act of Central Legislature or State Legislature
- iii. Institutes or research bodies registered under the Societies Registration Act, 1860
- iv. Organisations, i.e. any public or private limited company registered under the Companies Act 2013/1956, Indian Trusts Act, 1882
- v. NGOs having a registered office in India

4. ELIGIBILITY FOR EMPANELMENT

- i. The institute/agency should have relevant experience of either conducting surveys or microeconomic analysis of markets or both. The minimum experience required is as under:
 - a. Surveys: The institute/agency should have conducted at least two surveys during the last five years
 - b. Microeconomic analysis of markets: The institute/agency should have undertaken at least three economic analysis reports relating to markets, competition, regulation etc. during the last five years

The above conditions can be relaxed as per the discretion of the Commission on a case-to-case basis in deserving cases.

- ii. The institute/agency should have a valid PAN / GST Registration in India (*if applicable*). A copy of PAN card and GST Registration certificate to that effect needs to be submitted.
- iii. The institute/agency should not have been blacklisted by Central/State Government departments/Undertakings/Statutory bodies.
- iv. The institute/agency should have a consistent core team of at least two Economics experts with a minimum qualification of Master's Degree in Economics/Business Economics/Financial Economics/Econometrics/Statistics and professionals with relevant experience.

5. METHOD OF SELECTION

5.1. The Commission may empanel institutes/agencies on national or a regional basis as per the zones classified below and/or on a pan India basis in case the institute/agency has a pan India presence.

- i. East Zone: Assam, Arunachal Pradesh, Bihar, Chhattisgarh, Jharkhand, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Sikkim, Tripura, West Bengal
- ii. North Zone: Delhi, Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Uttarakhand, Uttar Pradesh, Madhya Pradesh

- iii. South Zone: Andhra Pradesh, Karnataka, Kerala, Lakshadweep, Pondicherry, Tamil Nadu, Telangana, Andaman & Nicobar Islands
- iv. West Zone: Daman & Diu, Dadra & Nagar Haveli, Goa, Gujarat, Maharashtra, Rajasthan

5.2. Evaluation of the proposals shall be based, *inter alia*, on the following factors:

- i. Years of experience and specialization in economic analyses of markets and/or surveys; citations of reports/surveys in public reports/government policy documents, media etc.
- ii. Agency profile and core team composition
- iii. Infrastructure such as computing systems, IT infrastructure including data analysis softwares etc.
- iv. Track record and integrity
- v. Empanelment with government/statutory bodies
- vi. Preference will be given to the institutes/agencies having expertise and experience in economics of competition law.
- vii. In evaluating the proposals for surveys, the following additional criteria shall be considered:
 - (a) Types of surveys conducted
 - (b) Size and spread of samples
 - (c) Length and quality of questionnaires
 - (d) Relevance to the nature of work
 - (e) Survey methodology
- viii. This list is illustrative and not exhaustive. The Commission may also consider any other factor relevant for empanelment.

5.3. The EoI shall have to be submitted in the prescribed format annexed at **Annexure I**. Incomplete EoIs or EoIs not in the prescribed format are liable to be rejected.

5.4. The Commission reserves the right to accept or reject any of the EoIs without assigning any reason thereof and without thereby incurring any liability to the affected parties.

5.5. Selection will be made based on particulars and documents furnished by the applicant as required. If any information furnished by the applicant is found incorrect at a later stage they shall be liable to be debarred from tendering & taking up the work. The Commission reserves the right to verify the particulars furnished by the applicant independently.

6. TENURE/TERM OF EMPANELMENT

6.1. The initial empanelment will be for three years or until further orders, whichever is earlier. Performance of the empanelled institutes/agencies shall be reviewed on an annual basis. However, on completion of the term and satisfactory performance of the institute/agency, the empanelment may be renewed for a period of another three years by the Commission. The Commission reserves the right to terminate the empanelment of any institute/agency at any time.

7. PAYMENT OF FEE AND OTHER CONDITIONS

7.1. The fee payable to the institute/agency shall be governed by a separate financial bid invitation depending on the nature of the work on a case-by-case basis.

7.2. No retainer fee shall be paid to any institute/agency merely because such institute/agency has been empanelled.

8. SUBMISSION OF EoI

- i. An authorized representative of the applicant should initial at all pages of the EoI. The representative's authorization confirmed by a written Power of Attorney/authority specific to this project should accompany the EoI.
- ii. The sealed EoI (Technical Proposal along with supportive documents) shall bear the name and communication address of the bidder along with contact details and clearly marked with name/subject **"EoI for Empanelment of Academic Institutions/Survey Agencies for conducting surveys and/or economic analysis of markets"**.
- iii. The completed EoI must be delivered at the below mentioned address on or before the stipulated time and date. Any EoI received after the closing time for submission will not be accepted.

Address:

Mohan R. Ronanki
Deputy Director (Economics)
Competition Commission of India
Hindustan Times House 18-20, Kasturba Gandhi Marg,
New Delhi – 110001
Email:ecodivision@cci.gov.in

9. COMMUNICATION OF EMPANELMENT

9.1. After a decision to empanel the institute/agency is taken, a communication in writing to this effect shall be sent to the institute/agency as per **Annexure II** with acknowledgement and acceptance due. The process of empanelment shall be complete when Commission receives an acceptance letter from the institute/agency.

10. GENERAL INFORMATION

- i. The empanelled institutes/agencies shall be offered specific work, when the Commission deems it necessary on a competitive bidding basis wherever possible. However, the Commission does not bind itself to seek competitive biddings from the empanelled institutes/agencies only.
- ii. This document is neither an offer letter nor a legal contract, but an invitation for technical proposal for empanelment of institute/agency.
- iii. The empanelled institutes will not delegate the work and themselves deal with the same. They may have to coordinate and work with other designated institutes/agencies, if any, engaged in the work as well as with the officers of the Commission, if required.
- iv. The empanelled institute/agency shall maintain absolute secrecy and confidentiality about the cases of the Commission as required under the Act and rules/regulations made thereunder.
- v. Intellectual Property Rights for all documents and outputs developed during the work will rest solely with the CCI.
- vi. The institute/agency shall in full accept the terms and conditions of the empanelment as determined by the Commission.
- vii. If considered necessary, an enquiry about the claims and conduct of the institute/agency to be empanelled can also be made and credentials may be verified; if the institute/agency is empanelled by other regulators/organizations, opinion of those organizations may be obtained.

ANNEXURE I - Format for Expression of Interest for Empanelment

1.0 General Details of the Organization

1.1 Description

S. No.	Description	
	Name of the Entity	
	Type of Entity (Academic/Research Institute / Autonomous Body/Market Survey Agency/Others)	
	Year of Establishment	
	Area(s) of Specialisation	
	Head Office Address	
	Name of the Chairperson/Head of the Institution/Managing Director and Telephone number	
	Total Number of Regular Staff	
	Office Phone Number(s)	
	Fax	
	Email	
	Web	
	GST No./TAN No./PAN No.	

(Attach relevant documents)

1.2 Details of Regional Offices/ Field units

S.No.	Location of regional offices and address

1.3 (a) Experience of Work (Survey)

Sl. No.	Name of the Survey/ Project carried out in the last 5 years i.e. not earlier than 2012-13 (Brief details of survey to be provided)	Sector	Size and spread of sample	Survey methodology	Name of the funding agency	Geographical area details of the project being carried out (State/ District/Block/Village)	Year & duration of the project	Mode of involvement (as independent implementing agency or partner agency)

(Attach copies of completion certificates, sample questionnaires of surveys and citations)

1.3 (b) Experience of Work (Reports/Economic analyses of markets/Sectoral studies)

Sl. No.	Name of the Reports/Economic analyses of markets carried out in the last 5 years i.e. not earlier than 2012-13 (Brief details of reports/analyses to be provided)	Sector	Name of the funding agency	Year & duration of the project	Mode of involvement (as independent implementing agency or partner agency)

(Attach copies of completion certificates, reports and citations)

1.4 IT Infrastructure facility

Computing facilities + IT architecture including data analysis software(details of package with version)	
--	--

1.5 Details of in-house subject expert(s) in the core team

Sl. No.	Name	Qualification	Main skill/Sector	Duration of working with the organization	Total experience

(Attach certified CVs of subject experts in the core team)

2.0 Other Details

2.1 Awards & recognitions (if any)

Si. No	Name of award or recognition	Name of project/assignment for which award/ recognition was given	Year of the award/recognition	Name & location of the agency who gave the award/recognition

(Attach relevant documents)

2.2 Empanelment with Government Organizations, PSUs and Autonomous/Statutory bodies

Sl. No.	Name of a) Government or Semi-Government Organization, b) PSU, c) Statutory Body	Year of empanelment	Name of project/summary of work association	Year and duration of project(s)	Cost of work contract (Rs. million)

(Attach relevant documents)

Mandatory List of Documents to be Attached Along with the Application Format

Duly filled EoI must have the following attachments

1. Covering letter addressed to Competition Commission of India, The Hindustan Times House, 18-20, Kasturba Gandhi Marg, New Delhi 110001, India
2. Latest organogram of the agency
3. Proof of Tan No., PAN No., GST
4. Brief about the projects implemented in the last five financial years not earlier than 2012-13
5. Copies of completion certificates to support the work experience
6. Certified CVs of subject experts in the core team
7. Relevant documents regarding empanelment with Government Organizations, PSUs and Autonomous/ Statutory bodies (if any in seven years i.e. not earlier than 2009-10)
8. Undertaking for not being blacklisted (self-attested)

Failure to provide any of the listed documents or information shall adversely impact the evaluation of the applicant in the empanelment process. Notwithstanding the submission of these documents, CCI is neither bound nor obliged to include any agency on the empanelment list.

ANNEXURE II

To,

.....
.....
.....

Dear Sir/Madam,

Sub: Empanelment with CCI

This is with reference to your Expression of Interest (EoI) dated..... wherein you have evinced interest for empanelment as an institute/agency with the Competition Commission of India (“the Commission”) for conducting surveys and/or undertaking microeconomic analysis of markets, as and when needed by the Commission for the purpose of enforcement of sections 3, 4, 5, and 6 of the Competition Act, 2002.

We are pleased to inform you that your EoI has been considered favourably and you are advised to give your assent for empanelment on the following terms and conditions.

1. You will abide by the Commission’s terms and conditions and you will not claim any retainer fee or employment in the Commission’s service.
2. The fee payable to you shall be governed by a separate financial bid invitation depending on the nature and scope of the work on a case-by-case basis. In the case of surveys, the fee payable to you shall take into account, *inter alia*, the number of respondents, geographical spread, number of parameters being tested through the survey.
3. Empanelment does not confer any right or claim that you alone should be entrusted with the Commission’s work.
4. You will not delegate the work assigned to you to any other agency. You may have to coordinate and work with other designated institutes/agencies, if any, engaged in the work as well as with the officers of the Commission, if required.
5. All research outputs including reports, papers, presentations etc. produced by you during the course of a specific assignment shall remain the intellectual property of the Commission. You shall not be allowed to use the same for any other purpose.
6. You shall preserve strict confidentiality of all information or material gathered during the course of a specific work assigned to you by the Commission and shall not disclose any such information or material to any third party at any point of time. The information or material received by you during the course of engagement shall not be used for any other purpose.

7. At the time of award of a specific work, a separate Non-disclosure Agreement will have to be signed by the head of your organisation.
8. You shall not use the Commission's name or logo in your letterheads, signboards, nameplates etc.
9. You are requested to return the duly signed duplicate copy of this letter indicating your unconditional consent.

We look forward to your acceptance at the earliest.

Yours faithfully,

(Authorised Signatory)