Offer for Work on:

Interim Evaluation of European Marine Observation and Data Network

For the European Commission

Presented by:

MRAG Ltd

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Introduction

This proposal presents the approach that MRAG Ltd (the contractor) would use to undertake an interim evaluation of the European Marine Observation and Data Network (EMODNET) for the European Commission. This would be completed in accordance with the terms of reference within the following timeframe:

Task	T+ 1 month	T+ 2 month	T+ 3 month	T+ 4 month	T+ 5 month	T+ 6 month
Inception meeting in Brussels	███					
Task 1		███	███			
Task 2		███	███			
Task 3 (Legal)		███	███			
Draft final report				███		
Presentation					███	
Final report						███

Please refer to the last section for details of the budget foe completion of the project.

Understanding of the ToR

The terms of reference call for an assessment of how well the portals have overcome legal obstacles to data sharing identified in "legal aspects of marine environmental data". For the purposes of this proposal it is understood that the term "data sharing" should refer to the use and re-use of marine environmental data. As noted in "legal aspects of marine environmental data", marine environmental data of the type that can be accessed through the portals is subject to two separate bodies of law with distinct and sometimes opposing objectives.

One body of law seeks to promote access to environmental data and the re-use of data held by public sector bodies including environmental data. These include the Access to Environmental Information Directive[1] and the PSI Directive[2]. The other body of law seeks to encourage innovation by recognising the rights of creators of intellectual property through the grant of intellectual property rights (IPR). Put another way the first body of law seeks to promote flows of environmental data, while the second body of law may have the effect of constraining such flows.

The focus of this proposal is on the second body of law, in other words the law relating to IPR. This is because the instruments that promote *inter alia* access to environmental information and the re-use of public sector information operate in parallel to IPR, at both EC and Member State level. More specifically these instruments cross refer to IPR and take account of the IPR regime but without fundamentally altering it.

The IPR regime is relevant because the notion of "intellectual property" is sufficiently broad to include data of the type that can accessed through the portals. Consequently copyright restrictions regarding further reproduction and distribution may still apply to such data.

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[1] Directive 2003/4/EC of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC.
[2] Directive 2003/98/EC of 17 November 2003 on the re-use of public sector information.

Moreover databases, which term is broadly defined, can also benefit from copyright protection as well as a specific *sui generis* database right[3].

An owner of IPR, like the owner of any other type of asset, is basically free to determine whether or not the data may be used or re-used by a third party and, if so, the conditions that may govern such use or re-use.[4] The overall effect is that the right to use and re-use marine environmental data of the type that can be accessed through the portals will depend on the particular data policy of the owner of the data (or more precisely the owner of IPR in the data) who, to further complicate matters, may be a person other than the actual holder of the data. Where a data holder decides to make data available to third parties, their relevant data policies will generally recommend or impose the use of a formal contractual licence agreement to control the release and further use of the data. A licence to use data, like many other types of contract, can be created in a number of different ways ranging from a standard contract to which applicants can adhere (*e.g.* a click-licence for data that are made accessible on the internet), or may be (to a certain extent) open for negotiation on an individual basis. Such licences invariably contain conditions relating to such matters as liability, the proper use of the data, the purposes for which the data may be used (*e.g.* that the data may not be used for commercial purposes), confidentiality and the data owner's IPR in the data. Moreover and particularly but not exclusively in the case of data to be used for commercial purposes, licences may address the issue of payment for the use of the data.

In terms of the portals, therefore, the basic task is to assess how the approach of the portals to the IPR of the owners of the data to which they provide access in terms of the use and re-use of those data.

Approach

There are three tasks to be performed under the Terms of Reference. The first task is to conduct an assessment of the user friendliness of each portal, and then the contractor will have to gauge how reusable the data that is available through the portal is. Finally the contractor will determine how far the portals have overcome legal obstacles of data sharing. The approach outlined below will be applied and replicated for each of the five portals as identified in the TOR: hydrography; geology; chemistry; biology; and physical habitats.

Task 3.1

The first task will be to determine the user friendliness of the portal. This will begin with an examination of both the content and the functionality of the portals. The contractor will record their experiences and explain what aspects of the portal provided a good understanding of essential components, inclusive of:

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[3] European Community Directive 96/9/EC of 11 March 1996 on the legal protection of databases.
[4] Public sector data holders must ensure that their data policies are consistent with the PSI Directive in terms of the re-use but only in those cases where those policies permit re-use: the directive does not make re-use mandatory.

1. The scope of EMODNET

   - This will be evaluated by examining the main text content in the portal and attempting to complete basic tasks such as searching, catalogue, and viewing data on GIS interface.

2. The data coverage

   - Analysis will attempt to determine if the there any temporal or spatial gaps in the data available through the portal. In this component, it will also be important to determine: what proportion of data is freely available? What requires registration? And, what is only available under licence?

3. The Data Quality

   - The contractor will determine to what extent the metadata is complete in terms of the data that is held in the portal. It will also assess if there is information on the quality of the data and how the information on quality is expressed?

4. How to download data

   - The contractor will examine the speed that search results are returned and determine if the information returned by the search engine is accurate. When the required data has then been identified, the speed at which it can then be downloaded will be documented. If any registration or licences are required in the portal, then further assessment of the registration/licensing process will be conducted.

   - For each of the portals a matrix of the formats that the data is available in will be created. The final report will include a list of the software that can be used by each format and whether it is a propriety format.

5. How to provide feedback

   - The contractor will document the level of ease at which there is to provide feedback on the portal. It will be documented if feedback can be given on specific products or if it is only possible to leave general feedback. The assessor will also record if your feedback is visible to other users.

After the assessment of the portal has been completed, we would attempt to gather stakeholder opinions of the portals. This would begin by conducting stakeholder analysis in order to determine the different types of stakeholder for each portal and would then build up a detailed contact register.

With the development of the contact list, it will be possible to gain feedback from portal users by developing a user satisfaction questionnaire and put up online. Some of these questions could include (but not exclusively or exhaustively) as an example:

– What was your reason to go to the portal? Did you have a specific task to do? Did the portal help you complete the task?

- What was your first impression of the portal?

- How intuitive was the portal, did you need to follow instructions? If you used instructions in the portal- were they clear?

- Could you find the information/data you needed quickly/easily? Were there gaps in the information that you were provided? Was the data in a format that you needed?

- Did you have any problems using the portal? Did you leave any feedback? Did you receive any response to this feedback?

Task 3.2

We would complete the task required in 3.2 for each of the portals, for each task we would document experience using the analysis questions of task 3.1. as a starting point.

We would then document any further steps that we need to do to complete the task such as processing/transformations of data, describe any extra tools that we need to uses, and indicate if they are propriety, how easy they are to uses themselves.

Task 3.3

In terms of the methodology for this task the approach will involve a combination of desk study and telephone interviews with the coordinators of the projects behind the portals. Under the first heading it will be necessary to carefully review each of the portals in terms of their respective approaches to IPR (both explicit and implicit) as well as the progress reports. A preliminary perusal of the portals reveals a number of references to IPR in terms of substance and approach. For example the hydrography portal makes use of the online shopping mechanism of the SeaDataNet CDI service. On the hand, the approach of the biology portal is slightly different in terms of references to IPR.

Finally having formed a clear picture of the respective approaches of the different portals it will be necessary to undertake a legal analysis and to document the main findings.