

**PRESS RELEASE**

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**OpenForum Europe calls on Poland to improve its IT procurement habits**

Poland is by far the worst offender when it comes to naming IT trademarks in calls for tender by its public sector, according to OpenForum Europe's (OFE) latest Monitoring Report on the European IT procurement market.

Polish contracting authorities issued over a third of all the tenders across Europe that named IT suppliers during the final quarter of last year, the OFE Monitoring Report found.

However, Poland isn't the only country picking winners. Germany and France also issued a disproportionately high number of IT tenders making specific reference to a trademark during the final three months of last year.

Overall, the OFE Monitoring Report found that 16 percent of IT tenders issued in the final three months of 2011 made specific reference to a supplier's trademark. This is an increase from 13 percent recorded in a similar OFE monitoring report published six months earlier.

EU procurement laws try to ensure that public procurement at both national and EU level gives equal treatment to potential bidders and doesn't discriminate in favour of one or another supplier.

Naming trademarks in tenders is viewed as discriminatory and the cause of distortions in the market, and is usually against existing EU procurement laws, except under certain circumstances.

The European Commission, the EU's executive arm, is currently revising the laws governing public procurement. One of the objectives is to make the procurement process more transparent and open, particularly to smaller suppliers.

Public procurement accounts for nearly 20 percent of the EU's gross domestic product – around 2.2 trillion euros, according to Eurostat figures from 2009. By specifying one preferred supplier public bodies are inadvertently helping dominant firms maintain their stranglehold on markets to the detriment of smaller competitors.

The OFE Monitoring Report found that by far the most common trademark to be referenced in IT calls for tender was Microsoft, which accounted for just under 40 percent of all recorded trademark references.

“Europe has thousands of small IT firms that in many instances are simply frozen out of the public procurement process by restrictions such as the naming of trademarks in calls for tender,” said Bob Blatchford, chief operating officer of OFE.

“The problem of naming IT brands in public tenders isn't going away. From our latest Monitoring Report it appears the problem is actually getting worse,” he said.

The situation in Poland is of particular concern. “We urge the Polish authorities to review their practices, particularly in light of the ongoing review of EU procurement laws,” Mr Blatchford said.

The OFE Monitoring Report examined 600 IT tender notices by ministries and government agencies in 25 EU countries (excluding Greece and Bulgaria) and by the EU itself issued in the final three months of 2011 – roughly half the total number of IT public tenders during that period.

In light of its findings OFE urges EU lawmakers to address such discriminatory practices as they debate the revision of the EU Public Procurement Directive.

“The existing directive has failed to keep a check on these practices, which are not only against the principles of competition and the fulfillment of the Single Market, but also act as obstacles to SMEs eager to compete in a market that should be open, innovative and transparent,” Mr Blatchford said..

OFE reiterates the three core recommendations to EU lawmakers that it made last year and in 2010:

- 1 Improve EU-wide guidelines to overcome lack of awareness of procurement law at local level, explaining clearly the long term costs of lock-in, and encouraging a life cycle perspective with regard to IT software and hardware procurement.
- 2 Closer scrutiny of the use of the negotiated procedure without calls for competition.
- 3 Align Regulations governing procurement by EU institutions and agencies with the reformed Procurement Directive to ensure that EU institutions are also encouraged to improve their tenders.

In addition, OFE has recommended its members to engage with procurement authorities across the EU to encourage them to mandate that IT procurement be standards-based and where available uses open standards – a crucial issue for software interoperability.

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