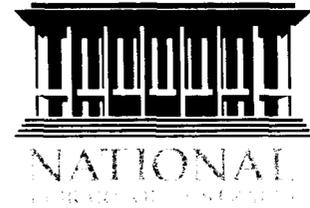


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24 October 2006

Ms Susan Philp
Director, Adjudication
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602



CANBERRA ACT 2600 AUSTRALIA
TELEPHONE (02) 6262 1111
HOME PAGE ADDRESS
<http://www.nla.gov.au>
TELEPHONE TYPEWRITER NUMBER
1800 026 372
NATIONAL LIBRARY FACSIMILE
(02) 6257 1703

Dear Ms Philp,

FILE No:
DOC:
MARS/PRISM:

Application for authorisations A91012 and A91014 lodged by the National Library of Australia

Thank you for your letter of 18 October 2006 and your understanding of the National Library's procurement responsibilities as a Commonwealth entity. Hopefully the following information will meet your needs. If not, please do not hesitate to contact the Library for further information.

Expected Materials/Information Resources

Based on our knowledge of the market place (as opposed to the content of tender responses which will remain confidential to the procurement process) examples of materials/information resources likely to be provided by Resource Providers under the proposal may include the following in electronic formats:

- general and subject-based encyclopaedias;
- dictionaries;
- thesauri;
- almanacs;
- full-text newspapers;
- biographical dictionaries;
- databases of journal articles in the subject areas of news and current affairs;
- business information, including company information, economic and market trends; and
- health information, including consumer health information, medical research.

It is anticipated that these electronic resources would be made available to library users across the Internet though a variety of authentication mechanisms (eg Internet Protocol (IP) address, username and password).



It should be acknowledged that while these resources are often available in print format, electronic access offers improved functionality and greater access to the information content as well as time efficiencies for users.

The kinds of questions that these resources might be used to answer would include such things as might be asked of any Australian reference librarian, for example:

- who was the winner of the Melbourne Cup in 1987?
- primary and secondary school homework problems across multiple disciplines;
- information about the treatment and/or prevention of certain medical conditions;
- what are the current trends of poverty in Australia?
- biographical information about key Australian politicians and public figures;
- what is the impact of global warming on the environment?
- what were the top ten selling songs in Australia in 1975?

Removal of International Content/Diminished Benefit to the Australian Public

In your letter you indicated that it has been suggested that the requirement in the Library's tender document pertaining to minimum Australian content may result in the removal of international content from tendered services, diminishing the benefits of the services to the Australian public without leading to an overall increase in the amount of Australian content provided.

For clarification purposes, while the Library's tender document has asked for a significant proportion of Australian content as an essential requirement, the tender document defines a "significant proportion" to be a "*preferred* percentage of no less than seventy percent (70%)" (refer part E, 'Glossary', clause 52 on page 21 of the tender document - our emphasis). During the tender period, a question was received regarding this aspect and an answer posted to all potential tenderers (ie all who had downloaded a copy of the RFT documentation). A copy of the question and answer is provided below:

QUESTION 9: Could you please clarify the definition of Significant Proportion as it relates to Australian Content?

Clause 52 of the RFT defines Significant Proportion as "preferred percentage of no less than seventy percent (70%)". The Library recognises that specifying an exact amount of content overtime is difficult with regards to Australian Content (also a defined term). This is one of the reasons that we have requested the range of information specified at Schedule 1, clause 1.1.1 of the RFT.

Libraries connect people to information on all subjects, in any format and for any purpose. The Significant Proportion definition reflects that the services here are intended for an end user which is the Australian community and with this particular procurement we are meeting an identified subject need. Hence we are stating that we prefer that the electronic resources we select to have this level of content. We are interested in an Australian perspective and substance: that is the intended purpose of the electronic resource, irrespective of the source of supply. For example it would mean that if there were two tenderers that were identical in every other respect of the selection criteria, but one offered

75% content and the other 69%, then we would select the former over the latter.

The National Library stresses that the stated percentage is a preferred level of Australian content and not a prescriptive amount. The market place will determine how realistic or otherwise the preference will prove to be.

The preference is however intended to meet an identifiable need by the library community, reflecting the requirements of its client groups. The library community was represented by participants to the National Licensing Forums mentioned in our original submission supporting the Application for Authorisation and dated 12 September 2006 (refer paragraph 18).

It should be noted that it is not intended that Australian libraries be restricted in their capacity to liaise with vendors for products with broader, international content. The proposed panel will not be an exclusive purchasing framework for Australian libraries. They will be free to pursue subscriptions for products with international content in other ways. Indeed, Australian libraries will need to purchase other products via other means in order to satisfy the information needs of their respective client groups.

If this particular procurement process is successful, the lower purchase price of key Australian information products may well give Australian libraries an increased capacity to purchase/pursue additional electronic resources in other specialist and/or international fields.

It is to the benefit of the Australian community for this particular procurement exercise that the focus of the resources is on Australia, Australians and the Australian experience. Other procurement exercises will no doubt provide other electronic resources.

Possible Loss of Competitive Pressures

With regard to the likely effect the arrangements may have on new entry and innovation as it relates to Resource Providers and the suggestion that Australian content requirements may lead to a consolidation of Australian providers and a loss of the competitive pressures which prompt innovation, the Library anticipates that the proposed arrangement will not have a major impact

The electronic resources on the panel will remain part of a range of electronic resources in the market place. Clause 4 of the Head Agreement (refer Schedule 5, 'Draft Contract' on page 57 of the tender document) makes it quite clear that the tendered resources are not exclusive to participating libraries. Australian libraries may obtain products and services similar to those of the Resource Providers from any other vendor.

If the Australian providers on the panel do not remain innovative they will not attract any continued business and libraries will go elsewhere for subscriptions to new and innovative resources. Again, the Head Agreement clarifies that over the period of the contract, there is no guarantee that a purchase order will be placed with a particular panel provider. It is noted that many providers in the market place for these resources are international and likely to remain so.

It is our understanding that Australian providers at present offer a range of information products and services that are not only electronic, but also in print format. These would no doubt continue. There is, however, a worldwide trend in libraries to move from print to electronic media for a variety of reasons, including improved functionality, improved access for onsite and remote library clients, and not least of all, value-for-money. There would therefore always be pressure for the market place to supply new and improved products. We would have no doubt that Australian providers will meet these challenges.

The nature of the information industry and constant evolution of electronic access and delivery mechanisms ensures that there will always be a range of alternative data resources to meet the information needs of libraries and their clients. Commercial services such as Google™ remain relevant to all information seekers and continue to aggressively market their innovative services to libraries, library clients and the general community. If Australian providers do not keep up with trends, and offer new and innovative solutions they may lose their competitive edge in the market place.

Similarly, the source information providers who underpin subscription services, are unlikely to make their data available to vendors ("Australian providers") if their content is not integrated into products/services in creative, marketable, readily accessible and easy to use ways.

If you require any further information after Wednesday, 8 November 2006, Mr Rob Walls will be the new Library contact person.

Yours sincerely,

A handwritten signature in black ink that reads "F.M. Wilson". The signature is written in a cursive style with a long, sweeping underline.

Fran Wilson
Director, Collaborative Resource Sharing
Resource Sharing Division