



TENDER GUIDELINES FOR MEDIA AGENCY TENDERS

Association of Communications Agencies in Hungary

Due to the specialization of the advertising industry and the increase of the number of communication companies advertisers have been presented with a wide range of alternatives when deciding on partners to cooperate with. In the past few years media agencies have gone through a serious professional development, therefore today they have become participants of an unavoidable importance within the communications industry. In addition to their role as media planners and buyers, media agencies also provide a complex and comprehensive communications service.

Today in the Hungarian market there are a significant number of media agencies present who are cooperating with each other in many fields. The Media Agency Section, which protects the interests of the media agencies as their professional organization within the Association of Communications Agencies in Hungary (MAKSZ), considers it an important task to develop common guidelines that provide the purity and the transparency of tenders for all partners of the advertising industry. This process of media agency selection should happen in a transparent manner and should provide the advertisers the ability to select partners that meet their requirements the most.

Based on the guidelines of the European Association of Communications Agencies (EACA), the members of the Media Agency Section of MAKSZ suggest the participants of the Hungarian advertising community to consider and follow the following points regarding tenders.¹ They also agree to participate at competitions in the spirit of the guidelines and indicate that in case of a deviation from the original competition the competitors will turn to MAKSZ for consultation.

The guidelines help potential clients select the most suitable agency and, at the same time, consider also the interests of the agencies themselves.

1 Tender:

Communication concepts and strategies (e.g. positioning based on research, communication strategies, creative strategies, communication mix, realization concepts, etc.) elaborated according to a brief disclosed to the participating agencies at the same time with the same content, handed in and presented under the same presentation conditions.

Duration of a tender: from inviting the agencies until the winning agency is informed in writing.

During the pitch the advertisers and the media agencies have to work in total agreement. The goal is to develop a transparent and fair tendering procedure that serves best the interest of the tender announcing clients and at the same time, respects the rights of the agencies. Such basic agency rights are copyrights, the confidentiality liabilities on conditions, financial criteria, as well as documents and materials forwarded to each other, submitted as part of the offer during the tender. All the concepts and the creative ideas presented at new business presentations are the properties of the presenting agencies. Neither potential clients nor any third parties shall use the presented ideas, concepts, price offers or other conditions without the written permission of the agencies submitting the ideas. The presented materials cannot be handed out to any third party. At the same time, fair competitions respect the resources of the agencies, thus do not expect unnecessary efforts from the competitors. Therefore, similarly to the advertisers, MAKSZ agencies will request the clients to sign a confidentiality agreement that regulates this issue at the beginning of the pitch.

In light of the above, members of the MAKSZ Media Section have a tender announcing obligation towards the association, as well as they are obliged to request and provide confidentiality at the start of the pitch. (The confidentiality agreement can be obtained at the secretariat of MAKSZ).

The aim of the points stated below is to optimize the process of the agency selection and create the opportunity for a long-term cooperation between the partners.

1. Minimum requirements on communication tenders and other competition procedures

Based on the above members of the MAKSZ Media Section formulated the following minimum requirements on tenders, online bids and other competition procedures:

1. The basic procedural order and guidelines:
 - The inclusion of a third party,
 - The indication of the number and the circle of the participants (if possible, also indicating the names of the participants),
 - Setting the procedural deadlines (at least the beginning and the end),
 - In the case of more phases or rounds the indication of their number and order,
 - Setting the essential personnel and infrastructural requirements,
 - Establishing criteria for the expected offer, as well as for its focal points and its assessment.
 - Information control and legal remedy options.
2. Data protection and privacy.
3. Guarantees of the protection of intellectual property.

2. The selection of the candidates

The news about the search for candidates can circulate widely. Thus it is fair to expect the client to inform the incumbent advertising/media agency directly about its plans beforehand.

It is advisable to compare the list of candidates with the membership list of MAKSZ since the agencies listed there already underwent a preliminary norm control during the procedure of obtaining membership, and are happy to hold an introductory presentation where they can present their structure, their professional background, as well as a selection of their non-confidential work done for their present clients. This step is also recommended as all prominent media agencies of the Hungarian market are members of MAKSZ.

Another practical method of selecting the candidates is to pay attention to current campaigns so that the clients can obtain direct experience about the agency's actual functioning.

3. The duration of the contract

It is advisable to call media tenders in a way that the client could sign a contract with the agency for at least one year. The attainment of maximum discounts for the clients is possible only by undertaking a year-long advertising expenditure with the media owners. In this case the potential clients can count on the discounts provided for the undertaking of a year-long turnover, as well as obtaining possible services meeting their special requirements.

In case the clients - depending on their trade interest - judge the issued tender until the end of October of the current year, the period of cooperation can start on January 1, following its termination. In light of the above the winning media agencies are able to represent the interest of their clients regarding the yearly media negotiations and commitments in a more effective way, contributing to the development of transparency and of more clear market conditions.

At the same time it is not desirable to announce a pitch for the current year after the acceptance of the yearly media commitments as then the possibilities of the competing agencies are already limited.

4. The media agency fee

Clients should indicate the budget limits in every case in their tender material. The more accurate their assessment of the media budget and of the tasks planned for the year is, the more precise the expected offer will be for the client during the tender.

Clients and agencies come to an agreement regarding the amount of the fee on their own accord. During the negotiations about the fee we suggest taking into consideration the fact that the MAKSZ agencies, with their staff expertise, specialized knowledge, communication tools and experience in media negotiations, can contribute to the marketing communication activity of the clients to such an extent that it has a much higher indirect and direct value than the commonly agreed fee. In order to achieve all this, the agencies need to make investments in the training of their professionals, in research, as well as in system and software developments that serve the interest of their clients to a great extent and result in savings. Therefore, depending on the budget and services demanded, the agencies are due a payment that covers the costs of the quality services their clients have been provided with and also of the necessary professional developments, and the amount generates a reasonable profit level.

The agreement is expected to include a fee based on performance (e.g. based on the effectiveness of media campaigns or the achieved savings) but the parties can also agree on a different payment system (e.g. a monthly fee).

The cost of the special services and the cost of the use of the database is a matter of agreement between the parties.

5. Pitching

The members of MAKSZ gladly accept invitations to tenders in accordance with the following:

a). Tendering clients should invite only an essential number of media agencies to the competition. We are confident that all participating agencies invest a lot of time, work and money in the pitching procedure. Therefore, they deserve their work to be judged with adequate thoroughness in order to have a fair chance at winning the assignment. Based on the above we believe that pitching can be most successful with not more than 3-4 invited agencies including the incumbent partner. We think it is indispensable that the invitation to the tender includes the names of all invited agencies, as well.

b). We consider it important for the invited agencies to get a full insight into the tender process, its tasks, its resource requirements and its length, so that they can properly decide on their participation. All invited agencies need to receive the same written assignment at the same time. Obviously, the deadline on finishing the work, the mode and the duration of the presentation should also be the same. The brief contains the duration and the volume of the investment to which the clients commit themselves through the winning agencies and this should be regarded as a contractual commitment of the client also during later working relations. It often happens that the tendering clients wish to select the agencies by issuing a test task. When announcing the task it is indispensable to establish whether the task is a real one or a test. The announcement contains the decision making method, the aspects of the selection, the composition of the arbitration committee and the deadlines of the pitch process. It also needs to mention the number of rounds before the final decision. In case the clients, due to their original aims, make their final decision after several rounds, we suggest applying the recommendations listed in the Tender Guidelines of MAKSZ in each round.

It is reasonable for the clients to inform the involved agencies about the contractual conditions of the cooperation already at the start of the tendering process, especially regarding the payment deadlines since this can greatly affect the extent of the agency fee.

c). Before starting the work it should be agreed upon whether any third party (e.g. research companies) needs to be involved in the preparation of the presentation material. It is advisable to clarify the rising obligations case-by-case regarding this. In case the clients ask the participating agencies for comparative prices (conditions) it is recommended to regulate the group of the expected data (determining the concrete target group, indicating the day part-mix or the seasonal prices, etc.) as detailed as possible. At the same time it is important to emphasize that the data indicated in the agency offers is highly confidential and cannot be handed over to any third party without the permission of the agency. During the feedback process it is essential to avoid sharing information that will expose another participant's offer. If necessary, the involvement of an independent media auditor is advisable to specify the above considerations, as well as to participate in the later decision making.

d). While issuing a tender the clients should inform the invited agencies which third parties they plan to involve in the pitching process. In case an independent media auditor or any other person outside of the clients' organization is going to participate in the process, they also need to sign a confidentiality agreement so that the rights of the agencies will not be violated. MAKSZ agencies accept all those persons who have sufficient professional experience and who legally possess all data necessary for the decision making as media auditors. (The list of the presently endorsed media auditors can be obtained at the secretariat of MAKSZ).

e). The direct costs of the completion of an average pitching material can exceed the amount of one million HUF. The costs of the market and media research databases and software, the necessary expertise and the time spent on the issue can reach an amount of tens of millions of HUF. Therefore, it is reasonable for each of the invited agencies, who held an appropriate presentation but did not win the assignment, to receive a financial reimbursement for their presentation.

f). Depending on the task, at least 4-6 weeks are needed to prepare a thorough, elaborate pitching material. It is advisable for the clients and the invited agencies to agree on the submission deadline together. It is recommended that the deadline should start from the acquisition of all necessary information. It is important for all invited companies to have the opportunity to take part in a personal consultation but the information shared on this occasion should be made available for all participating agencies.

g). In order to present the materials in a better and more complete way, personal presentations are indispensable. These are a great help during the judgment phase (because of the possibility of asking questions, debating or receiving explanations).

h). We suggest that the finished tender materials should be collected from the agencies electronically and their arrival should be confirmed by the clients. The date of the submission of the materials should be the same for every participant irrespective of whether at a later date they will be invited to a personal presentation, or not.

i). The winner of the tender can only be one of the members invited at the issuing of the pitch. After sending out the letter of invitation further agencies can not be involved.

j). Before announcing the winner it is advisable for the client and the selected agency to specify the financial conditions of the agreement, and possibly, to sign a contract about it.

k). It is necessary that all involved agencies are informed about the outcome of the pitch in writing that includes the explanation of the decision regarding that particular agency. It is fair to provide the possibility of a personal consultation for the non-winning agencies.

l). It is important to emphasize that the whole or any part of the pitching materials submitted by the non-winning agencies are under copyright protection, as well as the protection of any other laws on intellectual properties, and qualify as the trade secret of the tendering agency. The whole or any part of the tender materials should be used, forwarded or quoted to any third party only after an agreement is made with the tendering agency, and in a way that is stated in the agreement.

m). While terminating the cooperation with the incumbent agencies the terms stipulated in the contract need to be fully taken into account, especially the period of notice, the performance of the agency obligations approved by the client, the handing over or returning of the necessary materials, as well as the performance of the financial obligations.

6. MAKSZ tender coordination

After receiving the invitation to a pitch, member agencies shall inform the issuer of the tender first about their obligation to announce each tender to MAKSZ. After this step they inform the secretariat of MAKSZ about the invitation.

As a next step the client receives the Terms of Participation and Procedure as well as the confidentiality & copyright agreement requested by the agencies.

In case the draft of the media agency contract is already available the agencies will request it.

In case the brief contradicts any of the points stipulated in the Terms of Participation and Procedure and, in one way or another, limits the possibility of a fair competition, MAKSZ will initiate a consultation and will submit a proposal on the modification of the respective points of the brief.

Since each competition is unique, the above mentioned guidelines can change due to the consideration of the individual characteristics of each tender. In order to form a common standpoint and to set the conditions of the agreement the Association of Communications Agencies in Hungary is happy to conduct the coordination of tenders. Within the framework of this commitment it helps the work of the clients by keeping preliminary consultations; it coordinates with both the clients and the invited agencies and facilitates the agreement with its participation.

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