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**THE DEVELOPMENT OF PRODUCER PRICE INDICES IN THE FIELD OF LEGAL
ACTIVITIES, TAX CONSULTANCY AND AUDITING SERVICES
(THE GERMAN PILOT STUDY)**

Supporting paper submitted by Destatis, Germany¹

TASK AND BACKGROUND

1. The study was initiated by EUROSTAT to examine the feasibility of developing a producer price index for legal activities (LA), tax consultancy (TC) and auditing activities services (AA). Work started in April 2003. This survey has to be regarded in context together with other relevant services of “priority 1” for which producer price indices (PPI) have to be developed according to the draft amendment, Annex D. of the STS (short-term statistics). The intention is not only to settle new PPIs in Germany, but also in other countries in the EU in order to harmonize price statistics between the member states.

Object of the study

2. Object of the study is to install a producer price index (PPI) and to round out the existing consumer price index (CPI) as well as to complete the index figures for the service sector. A CPI for legal and tax consultancy services has been generated in Germany. But the scope of the PPIs goes far beyond the CPI. It requires the application of a different methodology.

¹ Paper prepared by Susanne Lorenz, Astrid Stroh and Peter Roemer.

3. Here international experiences of countries which have already developed a PPI for these sectors can be included in the development of the new methodology. Nevertheless, it has to be taken into account that the historic and legal environment of the LA-, AA- and TC sectors differ a lot from country to country, especially regarding the Anglo Saxon countries compared to the mid-European countries such as France, the Netherlands and Germany. This of course has an impact on the business structures and price behavior of the market players.

Feasibility of developing PPIs in the following sectors: auditing activity, book-keeping, tax consultancy and legal services (AA, TC, LA)

4. The differences in price collection surveys in production sectors versus service sectors are obvious.

- In Germany there are less experiences with the development of price indices in the service sector than in the production sector.
- Compared to products services are mostly not precisely defined. They can vary over time and change according to individual customer needs. They are less standardized than industry goods.

This produces difficulties in calculating PPIs which ought to monitor pure price changes and not price changes due to quality modifications.

Legal activity sector

Regarding the specific services which lawyers offer it is not easy to define standardized services.

- They are often characterized by a long duration including various services.
 - They differ from case to case,
 - from time period to time period.
- But it is precisely the requirement when calculating PPIs to monitor services with unchanged quality over time.

Auditing/tax consultancy sector

Referring to auditing and tax consultancy it seems to be less difficult compared to lawyers to generate standardized cases as the customers of auditors and tax consultants and their economic situation (income, turnover, profit) do usually not vary to such an extent that would make comparison impossible. Thus the cases meet similar requirements from one year to the other.

Referring to the target groups additional difficulties arise which involve lower response rates:

- Lawyers think more in legal than in economic terms. They have troubles (especially the bigger legal companies above turnover 10million EURO) to provide information about turnover and price structure of their offices.
- On the contrary notaries are more open to present figures as they are used to reveal their data regularly due to obligatory official controls.
- In contrast to the legal advisers auditors and tax consultants are more used to fill in forms.
- Most auditing and tax consulting companies, at least those with a turnover above 25 million EURO, even present their balance sheet figures in public.

Definition of the sectors AA, TC, LA and differentiation

5. **Qualification and education - legal activity sector**

- Lawyers: barristers and solicitors: often involving a specialization such as civil/commercial/criminal/family/fiscal/insurance/labor/renting/social/traffic law etc.
- Notaries: in some German Länder the notary and lawyer can even be one and the same person (Anwaltsnotar) which is not legalized in other regions where the notary is not permitted to follow other than notary activities. Whereas in Germany the notary usually belongs to the private sector, in some parts of Southern Germany the notary is an official and employed by the state.
- Patent attorneys

6. These three groups differ in their education and skills. Notaries have the most profound education in law. Lawyers, after a successful University degree, either have the possibility to become judge or take career chances in the private sector as lawyer, either independent or as employee in a company as legal advisors.

Patent attorneys have a less sophisticated and demanding education in law as their background is mostly a technological education in natural sciences.

7. **Qualification and education - the auditing and tax consultancy sector**

- Auditors: check and approval of the accounts and balance-sheets (for obligatory as well as for voluntary purposes), evaluation of a company's economic situation, assignation of the appropriate legal form of a company, tax consultancy
- Tax consultants: tax preparation of the private household or business income, bookkeeping, payroll accounting, representation in front of the fiscal authorities
- Accounting: bookkeeping, preparation of the accounts consultants

8. The auditors' and tax consultants' education is strictly regulated, preconditions are either an academic degree in economics or long-lasting practical experiences in an auditing/tax consulting company.

9. The legal advisors, tax consultants and auditors that are employed with a company that does not belong to the legal, auditing activity and tax consultancy services sector are excluded in the survey.

10. Income sources

Legal activity sector

Two sources:

- Scales of charge (BRAGO, GKV, Kostenordnung) – given by law
- Free price negotiations
 - Hourly rates
 - Flat rates (rarely)

Auditing/tax consultancy sector

Two sources, similar structure as legal advisers::

- Scales of charge (StBGeb) – given by law
- Free price negotiations
 - Hourly rates, daily rates
 - Flat rates (1/3 of all cases)

Price behavior and price finding processes

11. The table below shows the pricing behavior of the various target groups.

Estimated pricing behavior in % of the overall turnover in Germany

Nace	Scale of charge	Free price negotiations
74.11 Lawyers	70%	30%
74.11 Notaries	100 %	0%
74.11 Patent attorneys	0%	100%
74.12 Auditors	5 %	95 %
74.12 Tax consultants	85 %	15 %

Legal sector

- Notaries have to refer to the fee scales by law.
- For patent attorneys there exist no fee requirements.
- Depending on the market power, company size and/or the degree of specialization the lawyer is able to enforce his/her price ideas.

Auditing/tax consultancy sector

- Auditors are not regulated by a scale of charge given by law.
- On the contrary, the tax consultants have to refer to the fee scale in those cases and tax activity fields in which they are committed by the legislative. For the rest they are free to set their prices: hourly or flat rates.

12. The hourly rates that can be found mostly in bigger and middle-sized legal companies² are rather calculated in more specialized offices with experts of a certain legal field. Of course specialized lawyers have more possibilities to set their price ideas than a lawyer who is less experienced in a key subject. This is also one of the reasons why patent attorneys with a high degree of specialization are able to calculate their prices freely.

13. Auditors calculate their fees in free price negotiations. The hourly or in less cases the

² Annual turnover higher than 2 million EURO.

daily fee is the most frequent type of fee. Flat fees also occur (1/3 of all cases), they include an escape clause for those additional works that emerge after contract close and that were not anticipated.

14. Concerning tax consultants the scale of charge is applicable for those fields of activity that are typical for tax consulting services such as tax declaration, accounting, payroll accounting, explanations to and presentations in front of the fiscal authorities.

15. For other services - non-specific for tax consultancy - hourly and flat rates are billed.

CONDUCTION OF THE STUDY

16. Two phase-approach: weighting pattern and current price observation

1st phase: weighting pattern

The weighting pattern structures the sector for which the PPI is produced according to its business activities and turnover figures. In Germany the Laspeyre-Index is the traditionally used index type in price statistics.

2nd phase: current price observation

17. The main study is supposed to collect the current prices of the various target groups and activities. The focus of the main survey will be put on surveys with legal and auditing companies about their hourly rates and studies of the Federal Statistical Office of Germany that would give an overview of price changes in the fee scales.

Legal situation

18. At the moment the legal basis for the pilot survey is the Bundesstatistikgesetz (BStatG) § 6 (1). It contains the authorization to prepare and conduct statistics, questionnaires and surveys in order to prove their feasibility and usefulness. Response and information are given on a voluntary base. The amendment of STS will probably be adopted this year, so inquiries on an obligatory base will be possible in 2005.

1st phase: pilot study – determination of the weighting pattern

19. In order to meet properly all professional aspects and to design questionnaires that do not only meet the statistical requirements but also go along with the background of the respondents, chambers, interest organizations and the media have been contacted since July 2003. Focus of interest was to receive information about the business activities and fields of work of the target groups, the differentiation between the groups and their pricing behavior.

20. Additionally a pretest was conducted in September 2003 with the management board of the chambers and with target groups selected by the chambers in order to prove the feasibility of the questionnaires.

21. On the basis of these results the questionnaires were revised, shortened and the address lists were tuned.

Questionnaires

22. Referring to the questionnaires for the legal advisers questions about the number of employees and overall turnover of the company as well as the structure of the legal activity fields according to their turnover relevance were asked. Moreover, it was asked for the relationship between fees referring to fee scales and freely negotiated prices. The auditors' and tax consultants' questionnaires looked similar. These questionnaires could be designed in more detail due to the higher survey acceptance of these target groups. Furthermore they enclosed questions about the invoicing behavior regarding the scale of fees, the values of claim in detail, the point of time of invoicing during the year as well as the business duration with the client.

Project process

23. In the end of February 2004 the questionnaires of the four target groups, notaries, lawyers, auditors and tax consultants were sent out with the request to send it back by mid of March 2004. The respondents were selected by a stratified random sample according to company turnover. All big companies in Germany with a turnover of 10 million EURO and above were inquired in a total sample.

24. The notaries and auditors reached a response rate of more than a third of all addressed companies, the tax consultants of 25% and the lawyers of 15%. The very big companies (turnover 25 million EURO) answered very well, here the auditors showed the best feedback. Altogether the inquiry process ran smoothly and all concerns about lack of collaboration and refusing companies to fill in the questionnaires did not occur.

25. This leads to the conclusion that even difficult target groups can be inquired provided that the questions are brief, clear and well defined. For these target groups it was extremely relevant to underline the confidential treatment of the given information and anonymity of the respondents.

26. The calculation of a weighting pattern for patent attorneys was postponed as the desk research in this area gave hints that a precise definition of activity fields is hardly possible. Furthermore as the turnover of the patent attorneys' sector counts less than 10% of the overall turnover of all legal activities the patent area is not of high market relevance regarding a development of a PPI. Usually the attorney takes care of the client throughout the product life-time and a distinction between the different patent phases is not done by the patent office and therefore difficult to estimate.

2nd phase: main survey: current price conduction – determination of the PPI

27. As pointed out all price changes that derive from a change in the scales of fee set by the legislative are observed by the Federal Statistical Office via desk research: no direct inquiry is necessary. Referring to the notaries their fees can be derived completely from the relevant scale of fees (see chapter 1.4). Regarding the lawyers and tax consultants inquiries will only take place for activities that are billed after free price negotiations.

28. An overview over price changes of flat rates and fix fees is considered to be obtained easily. However, so-called ad valorem prices (fees that relate to a certain value of a claim) will be observed with more difficulties. These ad valorem prices do not run proportionally to increasing values of claim but decrease relatively with rising values of claim. There are

various values of claims lawyers and tax consultants can refer to: real estate, assets, wages etc. Statistics have to support the analysis. Nevertheless, for many activity fields secondary statistics are not yet available. Thus data such as provided by the National accounts may be ancillary figures.

29. In areas of free price negotiations the prices – mainly hourly rates – are collected via inquiry of the companies.

30. Many companies have sent their Email-addresses in the March inquiry. This confirms the assumption that a great part of these target groups has access to modern communicative devices. So it can be recommended to conduct the main survey, the price observation, via website questionnaires. Of course the respondents will also be addressed by a hardcopy questionnaire.

31. A detailed differentiation of hourly fees will not be disclosed frankly by the respondents and it will be hard to gain information. Smaller companies will only be asked for the average hourly rate. With rising company size the responding firm may differentiate their rates according to the employees' positions (partner, junior, secretary etc.). At the moment compared to other countries no fictive model cases are developed by which price developments could be observed. It was found out through the pretests that the target groups are not willing to answer complex questions of that kind.

FUTURE ASPECTS

32. Productivity progress is a factor which influences the service and product quality. Thus it has to be discussed on an international basis if and to what extent an index of productivity profits could be integrated in the price index.

33. From 2005 on the calculation of a producer price index for the target groups mentioned above seems to be possible.

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