DEFINING THE BORDERS BETWEEN THE PUBLIC AND PRIVATE SECTORS

Meeting of Senior Officials from Centres of Government on
The Role of the State and its Shifting Scope in the Public/Private Sector Interface
The Hague, 10-11 October 2002

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Questions for discussion

- When contracting out public services, governments’ aim is to have better service at lower or equal cost, ensure access and guarantee the public interest. How, in practice, are trade-offs made to find the balance between competing policy objectives?

- How does government succeed in implementing contracting-out and privatisation policies without compromising other policy goals such as social, gender and regional equity? What are the consequences of the shift in influence from the public to the private sector on values such as fairness, integrity, openness, and security?

- Is there a role for the Centre of Government in helping government to better handle challenges in the area of the public/private sector interface?

1. In the interface with the public sector, the private partners have different interests and values from those of their public partners. When the political decision-maker has to choose between “producing” in the public sector or calling on the private sector, he balances in priority objectives such as ensuring the integrity, equal treatment and security of citizens, against the objectives of financial viability and of competition. What are the respective weights of these objectives which make the decision-maker choose the private sector or the public sector?

2. In other respects, the transfer of a task to the private sector, through partnerships, contracting out or privatisation, does not exclude the need to pay full attention to governance issues. Use of public money in service provision obliges the elected officials and public managers, responsible for outcomes of publicly funded services, to respond to the concerns of (and be accountable to) the legislature, key stakeholders - such as clientele groups and businesses - and the public at large.

I. Balancing different policy objectives

3. The reasons for transferring public tasks to entities that are separate from the State vary from case to case. Among the objectives for contracting out public services have been to improve responsiveness, flexibility and efficiency in service delivery as well as the quality of services and to get cost savings through competitive tendering. In privatisations governments have, for example, pursued enhanced balance in the State budget, improved efficiency and performance in State-owned enterprises, introduced competition into monopolistic sectors in the economy, redirected State subsidies to public goods such as health and education, and reduced the role of the State in the economy.

4. The set of policy objectives, e.g. cost-efficiency, good quality, responsiveness and accessibility of services, equity across social groups and regions, high security, reduction of bureaucratic burdens, continuity of activities, and employment issues, vary from service to service and from programme to
programme, as does the weight of each individual objective. In addition, they may, to some extent, be
contradictory, and disparate social players tend to give them divergent priorities. Furthermore, the pursuit
of short-term policy goals may undermine long-term objectives. From the decision-makers’ point of view,
the dilemma is to weight them, or to give priority to some of them, after the evaluation of economic and
social consequences.

Box 1

Main topics in health policy

Governments of OECD Member countries are facing increasing challenges in health policy. Health systems are an
important element in social cohesion and represent the largest service sector in many OECD countries. Improving
health is a key concern of OECD societies, as it can contribute to higher economic growth and improve welfare.

“OECD countries face similar problems in assuring and improving the performance of their system. Some of the
main topics that are increasingly being raised on the health policy agenda in most countries include the following:

- **Health status.** Improving health status and outcomes for the entire population.
- **Raising clinical effectiveness.** Ensuring that clinical decisions are based on the best current practice (avoiding
  over-use and under-use).
- **Improving safety or reducing medical errors.** Developing health care organizations that are capable of detecting
  medical errors or adverse events to patients, and which are then able to effectively act on them to avoid future
  occurrences.
- **Raising responsiveness of the system.** Providing timely services (reducing wasteful delays) which are patient-
  centered and respectful of individuals’ preferences, needs, and values.
- **Improving efficiency/containing costs.** Providing the right incentives to providers, funders and consumers to get
  better value for money; and
- **Equity.** Ensuring that the same quality of care is provided to all, regardless of race, gender, geographic location,
  or ability to pay, and reducing the gaps in health outcomes across different regions and socio-economic or ethnic
groups.”

*Source: DEELSA/ELSA/WD(2002)1*

5. The risks involved in using private agents to deliver services rather than government providing
them directly are that political and social objectives may be disregarded and the public interest jeopardised.
This is a question to be balanced by decision-makers particularly where security is concerned. For
example, the terrorist attacks of 11 September 2001 raised the question of whether the baggage and
passenger screening function in airports should be run by a government agency, or whether a tighter
regulation and control of private contractors would provide an adequate level of security. Weighing
different policy objectives may also be of widespread public concern in services where values such as
reliability and privacy play an important role, such as in health services or in electronic use of personal
data. The strict regulations applied in the creation, transfer and storage of public sector files imply that
when the private sector is called upon - which is more and more frequent - it should respect the
confidentiality of such data and protect them properly. This is a major challenge in the development of
e-government.

6. In several OECD countries, the prevention of social exclusion has been introduced into the policy
agenda. While private contractors cannot be expected to meet substantial social obligations that would
commercially disadvantage them, government may consider special measures in contracted-out services to
reduce the risk of social exclusion. They should ensure, for instance, that the private partner does not make
selections which mean that the public sector has sole responsibility for the most expensive or least
profitable cases (e.g. private insurance companies which refuse to insure a particular illness or people without jobs, leaving the community to pay the medical expenses).

Box 2

Labour-market assistance in Australia

‘Job Network’ is a national network of around 300 private, community and government organisations contracted by the Government to assist unemployed people to find jobs. In Job Network, private, community and government service providers compete to attract job seekers to their service. “To ensure that highly disadvantaged job-seekers benefit from the assistance provided, a differentiated fee structure applies, with the highest fees being paid for those who are most at risk and hardest to place in a job. … Service providers must not refuse clients, which limits their ability to ‘cream’ job-seekers.” In addition, personal advisors have been introduced to assist disadvantaged job seekers in choosing among services and suppliers.


7. In the privatisation of State-owned enterprises, decision-makers must balance multiple policy objectives at each step of the long and complex process. Privatisations are made, for example, to balance the State budget, to attract investments, to improve efficiency and performance in State-owned enterprises, to introduce competition into the monopolistic sectors of the economy, to foster capital market development, and to reduce the role of the State in the economy. Simultaneously, the government has to protect other public interests such as accessibility and security of services, equity across social groups and generations, and continuity of activities, and to advance other sectoral policies such as employment and territorial development. In particular, the privatisation of network industries has to be combined with the implementation of complementary policy instruments such as re-regulation and establishment of independent regulatory bodies.

Box 3

Network industries in France

The case of network industries – telecommunications, air transport, electricity, rail transport and postal services - in France illustrates the main concerns towards privatisation. France has to a certain degree opened up its network industries to competition. According to an interim assessment, reform has had positive results such as lower prices, more diverse supply, improved quality and impact on economic activity. But there are concerns which undermine efforts to proceed further with opening up the industries to competition:

- A fear that their “public service mission” (availability of services all over the country at identical prices to the entire population) will be compromised.
- A concern that employees will lose their social benefits.
- Worries about whether the regulated industries can promote innovation and industrial development as they have done in the past.
- A concern that opening up to competition may result in market failures.


8. One of the key objectives of privatisation is to raise revenues. In the preparatory phase, sound valuation of assets, in order to ensure proper pricing, is among the most important factors. The well-grounded valuation of assets to be privatised is crucial from the financial point of view but also for the
democratic process. Often the selling price is one of the main sources of criticism: low pricing can imply public concern about government selling common property, belonging to all citizens and to future generations, at too low a price. The right balance in this area is also critical because privatisation programmes often involve multiple sales, and the government needs to retain credibility for future transactions.

Opening choices to citizens

9. The objectives of public policy may include equality of opportunity among citizens throughout the national territory. The challenge in public-funded services is to compound the pursuit for high productivity and efficiency with socially and regionally equitable distributed service delivery so that equal treatment of citizens is not threatened. In education, for example, a crucial policy goal may be to grant equality of opportunity between socio-economic groups and between regions and to give less advantaged groups better opportunities in order to enhance their future prospects. With a view to meeting the diverse expectations of citizens, some governments have introduced user choice, such as voucher systems, in public services. The rationale of vouchers is that having a choice of suppliers improves service quality and enhances efficiency. Allowing clients to exercise choice may also be a policy goal in itself.

10. Voucher schemes are systems in which clients receive entitlements to a service which they may “cash in” at a specified set of suppliers, which then redeem them from a funding body. Traditionally, vouchers have taken the form of pieces of paper authorising a named person to receive a specified service from a list of designated providers. Today, smart cards serve as an alternative media. However, these explicit voucher schemes are quite rare. Arrangements that function in a similar way, such as per-user subsidies for private nursing homes, income-dependent benefits earmarked for the purchase of child care in approved centres and tax credits for documented private school fees - implicit voucher systems - are more common in OECD countries. [ECO/WKP(2002)17]

11. These systems are in use, for example, at different levels of education, in housing, and in social care. In 1996, the United Kingdom introduced a voucher scheme in nursery education. It aimed to increase provision of services, to ensure that all places were of good quality, and to improve parental choice. Providers included private schools, privately run play groups, and State schools or day nurseries. This explicit voucher scheme was abandoned two years later and replaced by an implicit scheme. In primary and secondary schooling, implicit voucher systems are in use for example in the USA, United Kingdom and Sweden. The United Kingdom has also introduced Learning Credits, a voucher system for post-compulsory education. (Martin Cave: Voucher programmes and their role in distributing public services. OECD Journal on budgeting, Vol. 1, No. 1)
Box 4

Learning Credits, vouchers for post-compulsory education and training in the United Kingdom

“In 1996, the government announced its intention to introduce from September 1997 a new Learning Credit entitling all young people aged 14-21 to have access to learning opportunities at levels up to but excluding first degree or equivalent. In particular, all 16-year-olds would be entitled to a Learning Credit which entitles them to embark up to the age of 21 upon post-compulsory education or training suitable to their needs (excluding higher education qualifications) and to impartial advice in making best use of their credits.

The form of the voucher is a simple plastic card issued to eligible students. Those students can then cash in their credits with a variety of local providers, including secondary schools, further education sector colleges, employers and other work-based training providers.”

Source: Martin Cave: Voucher programmes and their role in distributing public services. OECD Journal on Budgeting, Vol. 1, No. 1

12. The user choice model can meet with difficulties in public services, because clients may lack the knowledge to make a sensible choice. In addition, some user segments, such as elderly people without relatives, may have difficulties in taking care of their own interests. Another problem that may arise in the voucher system is cream skimming. For example, if a school chooses the best students from those who apply, shunting others into inferior schools may harm their future prospects. (Martin Cave: Voucher programmes and their role in distributing public services. OECD Journal on budgeting, Vol. 1 No 1)

Box 5

User choice model in compulsory education in Sweden

In 1992, Sweden introduced a new funding system for compulsory education that allows parental school choice. According to this reform, municipalities, which are responsible for compulsory education, are obliged to provide funding to independent (private) schools, and parents have been given the right to choose their children’s school. As a consequence, the number of private schools has grown rapidly. In order to prevent private schools delivering better results by selecting the best or most well off pupils, the schools are required to be open to all pupils and prohibited from charging tuition fees.


II. Ensuring the principles of good governance in publicly funded services

13. There is no single definition of what good governance implies for government. Elements of good governance that must be observed in serving the public interests and in upholding the public trust may include the rule of law, accountability, responsiveness, efficiency and effectiveness, policy coherence and forward-vision, integrity, transparency, and participation and consultation. Recent public sector reforms have allowed public bodies more flexibility in achieving their objectives. This has enhanced efficiency and effectiveness in publicly funded services but, on the other hand, it has sometimes put other elements of good governance at stake.
Accountability

14. The blurring of borders and multiplication of public/private sector interfaces puts monitoring, reporting and evaluation mechanisms under great pressure, and has implied the need to rethink and reshape the concept of public - or democratic - accountability. Accountability issues can arise where the government loses direct control over the implementation of the policy programme. Public/private partnerships make accountability even more difficult. Public agencies are placed under intense public scrutiny, whereas their private partners act under private law. The challenge is to ensure that the public purpose is not lost and that associated risks are properly managed, even if power is shared with organisations that have disparate interests and values.

Box 6

Evaluation of public/private partnership programmes in Japan

Concerning the R&D policy, a number of OECD countries are making efforts to strengthen and refine their evaluation procedures. Japan has improved its evaluation system of R&D activities sponsored by the government, with a view to making the R&D expenditure more focused and effective, and to creating a more open, flexible and competitive R&D environment. The guidelines for evaluation practices require the introduction of external evaluation systems, disclosure of evaluation results, and appropriate allocation of funds and resources. This has encouraged each ministry and agency to formulate or improve its own evaluation guidelines, and strengthen their enforcement. For budget-allocated R&D projects, evaluations are being enforced in four phases: pre-project, intermediate, post-project, and follow-up phase. The four basic principles of transparency, neutrality, continuation, and effectiveness shall be applied.

Source: DSTI/STP/TIP(2002)7

Efficiency

15. In a recent OECD study, the effects on efficiency of introducing competition and involving non government-owned suppliers have been identified.

The positive effects are:

- Reallocating activity to more efficient units and facilitating economies of scale and innovation through reorganisation of production processes and organisational structure.
- Focusing the attention of service suppliers on core objectives, as contracts must specify services and objectives.
- Focusing the attention of service suppliers on user needs, as suppliers have to attract users who have a choice.
- Giving suppliers clear incentives to operate efficiently within their current field as improved performance is rewarded.
- Revealing best practices so excessive funding cannot be sustained.
- Making budget constraints harder as suppliers cannot count on “bailing out”.

Source: DSTI/STP/TIP(2002)7
….and the negative effects:

− Tangible transaction costs in cases where publicly funded services are hard to describe, measure and evaluate, as writing and enforcement of contracts may be complicated and costly.
− Diverting activity if services are very hard to describe, measure and evaluate. Suppliers may have too strong incentives to reduce costs in ways that deter service quality.

*Source:* ECO/WPK(2002)17

**Transparency**

16. To fulfil the requirement of public accountability, information about an organisation’s activities and performance has to be available to citizens and other stakeholders. In OECD countries, public decision-making processes have been opened to public scrutiny, and laws on citizens’ access to official information regulate transparency. Citizens also enjoy rights of access to information regarding themselves. When public tasks and services are transferred to the private domain, information formerly open to the public may become non-accessible. As a consequence, widespread use of private partners in the performance of public tasks tends to decrease the overall scope of transparency and openness.

17. The demand for greater transparency in service delivery culminates in services where private agents exercise - within the limits set in the contract and within the requirements of the law - discretion in individual cases. Effective complaint and redress mechanisms require access to information.

18. Reliable and consistent information is also a prerequisite for public participation. Citizens and social groups increasingly expect to be engaged in the formulation of public policy at all levels. Openness is compound with empowerment of clients, communication and consultation with stakeholders, and engaging citizens in policy deliberation. For example, without openness and public consultation and oversight mechanisms the credibility and legitimacy of large-scale public/private partnerships may be at stake. Similarly, public acceptance of privatisation requires clear rules and transparent procedures and constant information on them.