Struggling with Calculations – the Public Procurement of Management Consulting Services

Work-in-Progress

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Abstract

This paper addresses market practice developments in a regulated public procurement market. The aim of the study is to explore and further understand the consequences of imposing market regulations on market exchange practices. More specific we investigate the practice of procuring management consulting services under the Act of Public Procurement. The study is based on interviews with 14 public buyers and 14 suppliers of management consulting services. Our findings show that the introduction of the regulation has initiated calculating practices and configurations processes rather different from the anticipated effects of the regulation as well as the behavior it tries to evade. By illuminating these evolving practices we aim at developing further the notion of calculation and calculative devices that constitute the public procurement market.

Keywords: public procurement, market interventions, calculative agencies

Introduction

Public procurement in many European countries is subjected to authoritative market interventions in the shape of national legislations or formal directives aiming at neutralizing distorted power relations that potentially inhibit the free movement of goods and services within the European Union. In Sweden, for example, the practice of public procurement has been regulated by the Act on Public Procurement (APP) for more than a decade. The increasingly visible effects of such a market intervention are revealing an emerging new form of market rather different from the anticipated effects of the APP as well as the behavior it tries to evade.

The grand thought of the APP is to foster 'good business practice'. This is supposedly achieved by taking advantage of market competition. The main paragraph state that **"**[t]he award of public contracts should be so arranged as to take advantage of existing competition and should also in other respects accord with the conventions of good business practice…" (LOU 1992:1528,1ch.,4§.). The APP is based on the European Union's procurement directives and the WTO agreement, which aim at removing restrictions on free trade of goods and services, and thereby create the conditions for a common market with open competition. Free market competition is supposed to be secured through procurements made according to the principles of non-discrimination, equal treatment, transparency, proportionality and mutual recognition[1]. This means that all suppliers should be given equal opportunities when bidding on public procurements of goods and services within the European Union: they should not be treated differently because of nationality or localization; they must be given the same information at the same time; there has to be a natural relation between qualification requirements and what is to be purchased; and documents and certificates issued in one member state must be accepted in others.

The stated ambition of this kind of intervention could thus be said to find its echo in the dream of an enlightened society, wherein all knowledge is potentially available to every actor and where the rational argument will survive. As such the APP could be said to represent an institutionalized norm, a myth, born in the grand-thought of a rationalized exchange behavior. Following, for example, Meyer and Rowan's (1977) arguments, such a myth will conflict with the logic of efficiency in an organizational contexts for two primary reasons: it is too general (inappropriate to specific situations) and it is inconsistent with other institutionalized norms and rules. Consequently, organizations find creative ways to resolve this conflict through various decoupling mechanisms. We argue that although market interventions may be pervasive in some domains, it is in principle impossible to control such a complex social system to full extent.

In studying the role of the APP in public procurements and its effects on the market we have chosen to investigate the decoupling mechanism in more detail by looking at the microstructures of public procurement markets. Inspired by the analysis of economic exchange presented by Callon and Muniesa (2005) we will analyze the collection of calculative devices that constitutes the public procurement market: the calculable goods, the calculative agencies and calculated exchanges (ibid, p. 1230) in order to follow their struggle in the process of qualifying the goods that are exchanged (Callon, et al. 2002).

From such a perspective the aim of this study is to explore the consequences of imposing the APP on the market: the actors, the goods and the exchange process. In doing this we also assert a more dynamic approach: that the APP should not "simply" be regarded as a tool for performing specific tasks in a static knowledge domain. Rather the opposite is true: the introduction of the APP as a market intervention initiate different calculating practices and configurations processes.

1 For a more detailed account of EU procurement directives, see: http://www.procurementsupport.com/templates/Page.asp?id=1861 (September 2004).

Theoretical framework

We suggest that the persistent probing into what is real and what is not (cf. Bernstein, 1983), is not the main issue in a social constructed world. Instead the main question concerns *how* the real actually comes into being (c.f. Law 1994; Law and Urry 2004) In other words, the ontological commitment shifts to a becoming-realism instead of the more conventional being-realism (Chia, 1998). This mode of thinking privileges the illumination of organizing as a generic process of ”world-making” (e.g. Goodman, 1978) or in other words; how realities get constructed and what sustains them.

Such a perspective has many advantages. First, it lets the researcher put focus on a more encompassing understanding of micro-processes of change at work and how change might actually be accomplished (Tsoukas and Chia, 2002). Secondly, it allows us to regard the APP in practice as something under constant change as opposed to a device constructed from the outside where interpersonal dynamics has been almost safely disregarded. A law like the APP needs to be made to work on any given occasion, because it does not work itself out. Hence, the APP practice is tuned and adjusted by different actors in different contexts.

What does “the APP practice” on a micro-level look like? We can argue that practicing the APP is a question about embedding structures and appropriating those structures during the use of the APP. This is actually what could be said to be the hallmark of the regulation. The APP is based on central thoughts about the “free” market, with potentially “free” actors, practicing communication in a modern sense. Different actors are more or less forced to adapt to the regulation and appropriate their behavior (getting normalized) in line with its embedded structures. Even if such prevalent view could indeed generate numerous insights, it is linked to some weaknesses primarily with respect to two propositions: that the law “embodies” structures which (re)present various social rules and political interests and that it becomes “stabilized” after development.

The proposition that the APP is a question about embedded structures neglects that people redefine and modify meaning and applications even after its implementation and development (Orlikowski, 2000; Tsoukas and Chia 2002). It disregards the probability that actors decouple the alignment between structures and activities by minimizing the control of these activities while handle coordination and mutual adjustments informally (Meyer and Rowan, 1977) or that different actors while translating their ideas of the APP into different practices might manage incompatibility through coordination using various techniques (Kjellberg and Helgesson, 2005). The proposition that the law becomes “stabilized” after development is arguable because it situates structures within an artifact. This is an argument questioned by many social scientists, because viewing structures as embodied in artifacts ascribes a material existence to structures. However, structures can not itself form and shape, they are – as Giddens points out (1984, 1991) - rather what gives form and shape social life (see also Orlikowski 2000). We could say that the APP indeed can embody particular symbols, but it does not embody structures because those are only instantiated in practice. Structures are constituted recursively as human regularly interact with certain properties of an artifact and thus shape the set of rules and resources that serve the shape of interaction and discourses in practicing the APP (Law 1994; Orlikowsky, 2000).

A conventional analysis of the APP would start with the structures presumed to be embedded within the law and discuss how different structures are used or not by people in different context. However, we link our discussion to Orlikowski’s (2002:407) analytical proposal by focusing on emergent, rather than embodied structures:

> *“Focusing attention on how structures are constituted and reconstituted in recurrent social practices acknowledges that while users can and do use technologies as they were designed, the also can and do circumvent inscribed ways of using the technologies – either ignoring certain properties of the technology, working around them, or inventing new ones that may go beyond or even contradict designers´ expectation and inscriptions.*

We would like to highlight what users do when practicing the APP not primarily as appropriation, but as enactment in broader sense: how people enact emergent structures through recurrent interaction with the artifact at hand (c.f. Mol, 2002; Law and Urry, 2004). How suppliers and buyers might adapt

and appropriate to the law, but also how they might "ignore" it, "work around" it or "invent no properties" to act from.

While analyzing the enactment of the APP we use Callon et al.'s (2002) concept of qualification process, i.e. the process in which a product (or service) is qualified and positioned in a system of differences and similarities. Callon et al (p.200) consider the qualification process to be central to the dynamics of economic markets as it involves the construction of supply and demand through singularization (where the good is distinguished from other goods) and positioning (where the good is made comparable to other goods). By applying Callon et al.'s framework we may regard the APP as a market device that is intended to direct the qualification process. Furthermore, we may consider the different actors involved in practicing the APP, i.e. the law, the public buyers and the suppliers, as calculative agencies engaged in a struggle to qualify the goods being exchanged, a process even more delicate and collaborative when the good constitutes a service (as is the case in this study) (Callon et al. 2002; also Arajou and Spring, 2005). After presenting our findings on the impact of the APP on the market actors, the goods exchanged and the exchange processes we will structure our discussion in line with Callon and Muniesa's (2005) perspective on economic markets as calculative collective devices.

Method

In order to explore practicing the APP, we have chosen to make an interview study looking at public procurement of management consulting services. The method was deemed useful for the purpose of this paper, given the study's exploratory and tentative nature. Seen in this view, the empirical material in this article is not to be regarded as an endeavor to conceive of a clear order from different observations, like a "pure" induction or a complete "case study". Instead, the approach is based on an abductive method (Hanson, 1958). The abductive method encapsulates the kind of uncertainty that is present in the research strategy. However, we are following the vein of Peirce (1992) suggesting that making a reasonable guess is the only way of getting closer to attaining new and fruitful knowledge.

The study is based on interviews with 13 buyers from various public organisations' purchasing departments and 13 suppliers of management consulting services, all of which had experience from both public and private sector purchasing. The purchasers were selected from a public website listing recent procurements of management consulting services[2]. The consultants were selected from a consultancy guide[3] providing detailed information regarding management consulting firms offering services to both public and private sector customers. In addition official documents and reports have been studied, as well as a number of procurement specifications concerning management consulting assignments.

The interviews were informal in character, revealing consultants' perception regarding differences in purchasing behaviour in public and private sectors and buyers' discernment regarding public procurement and the effects for good and bad of purchasing according to the regulation. It is important to keep in mind that the effects and opinions revealed in this study are perceived, since they are based on participants' statements regarding the purchasing process, rather than on studies of the process itself.

2 Avropa.nu. Available (September 2004) at http://www.avropa.nu

3 Konsultguiden.se. Available (September 2004) at http://www.konsultguiden.se

Empirical findings

The market actors: the APP, the buyers and the suppliers

The APP is a generic regulation that applies to more or less all public organizations when they purchase goods and services that exceed a certain threshold value[4]. With small variations it is supposed to be generally applicable to the purchase of highly standardized products such as office material as well as more specific, tailor-made services such as management consulting services. The regulation includes a series of rules with regards to the different steps in a procurement process. The rules most relevant for the purchase of consultant services, and thus of interest for this study are:

1. Public advertisement of forthcoming procurements: the forthcoming procurement must be publicly announced so as to give all potential suppliers access to the same information at the same time.
2. Contract documents: Contract documents (specifications) must carefully specify the assignment as well as the administrative conditions, qualification requirements and evaluation criteria that are to be used as a basis for the tendering process.
3. Evaluation: All incoming tenders must be evaluated based on predetermined evaluation criteria. The cheapest or economically most favourable supplier with respect to the given criteria must be selected.
4. Incorrect procurement procedures and illegal methods used to get around the law can lead to legal sanctions such as rectification of procurement procedures or payment of damages.

Based on the principles of non-discrimination and transparency the APP requires that buyers announce upcoming procurements officially[5] and that information regarding them is available to all potential suppliers at the same time. According to the findings, this has resulted in a more visible market demand. The demand per se might not have increased, but according to the respondents the number of visible buyers has increased as a result of easier access to information about upcoming procurements. Following higher visibility in market demand the market supply has augmented. The number of potential suppliers has increased significantly since the introduction of the APP, according to the majority of the buyers. In one procurement as many as 60 offers had been received, and on average the number of incoming offers was around 25.

However, the increasing number of suppliers taking part in procurements has not necessarily led to a higher level of competition. The suppliers pointed out that "in public procurement the competition is high in the sense that there are many bidding suppliers, but at the same time lower than in private markets because the market is not segmented". The study reveals that the procurements often attracted everything from large, multinational actors such as Cap Gemini/Ernst and Young and PriceWaterhouseCoopers to small, local one-man-firms. It was also revealed, however, that this had scared-off some of the well-established suppliers. One supplier commented:

> *"We don't take part in public procurements as often anymore. We don't want to compete with firms that are out of our league and get our brand name associated with the wrong kind of market segment"*

One explanation to this wide spectrum of different kind of suppliers taking part in the procurements is that the assignments often are vaguely defined. Many suppliers argued that the specifications did not make clear what the buyers asked for and therefore they send in their offers on sheer speculation. One supplier explained:

> *"The specifications are often so poorly made that we have to guess what the buyers are asking for. If we are lucky we hit the target and if not at least we have exposed our brand-name. Actually, we take part in as many procurements as possible, sometimes only for marketing purposes"*

4 The threshold value for services within the EU is about 1.7 million SEK. However, according to Chapter 6 of LOU (1992:1528), procurements under the threshold value must also adhere to the law as long as the total amount exceeds 2-4 times the basic amount, i.e. 80,000-160,000 SEK.

5 The government provide a specific website, www.avropa.nu, where upcoming and ongoing procurements are announced. The APP also require that procurements above the threshold value for EU procurements are announced at the European Unions website: http://ted.publications.eu.int/official/

According to the respondents the problem of poorly defined needs and specifications is primarily a result of the buyers' difficulties in trying to beforehand specify management consulting services. In private markets, the suppliers pointed out, the process of problem identification and specification of assignments take place in interpersonal meetings between buyers/users and suppliers. However, the APP obstructs the possibility to meet with potential suppliers since the principle of equal treatment would require that they meet with every single bidding firm. Instead, the buyers are supposed to identify their needs and specify the assignment on their own, and then evaluate and select suppliers based on written offers.

Although the APP has resulted in a more transparent market demand in terms of potential procurements being easier accessible, the respondents indicated that it would be misleading to conclude that the procurement process is more transparent. In fact, some suppliers argue that the reverse is true. "The APP is just window-dressing, buyers do whatever they like anyway to maintain good business relations" and "the APP has not really changed the way we do business, it is still our established client relationships that matters most" commented two supplier, and many others withhold that it is not necessarily the explicit rules stated in the APP that directs the procurement process. Rather, the impact of already established procurement practices coming from private market exchange are profound, although in public markets these informal rules are disguised, or not outspoken. Most suppliers agreed that the impact of 'established buyer-supplier relations', for example, are equally important in public and private sectors. However, "the impact of established relationships is less outspoken in public procurements since it contradicts the APP", one supplier commented.

The goods exchanged

The rules in the APP could be said to aim at objectifying the service that is requested by defining it in terms of objectively measurable characteristics. As such it has a significant impact on the way the assignment is specified and consequently on how the service offerings are packaged and presented to the buyers. The regulation demand that the buyers develop detailed specifications upon which the supplier's offerings are based. The specifications could be described as formulas for suppliers to fill in. For example they ask suppliers to confer number of available consultants; price per hour; number of references; and proposed implementation of the assignments in terms of, for example, number of workshops or training hours with employees. The buyers confronting this calculative space in our study, however, complained loudly about the APP and the procurement process it stipulates. "Extremely resource-demanding" or "bureaucratic and costly" were some of the spontaneous comments.

The purpose of this practice is to standardize the offerings in order to make them comparable for the following supplier evaluation. However, as a majority of the respondents argue management consulting services cannot be standardized. "Management consulting services are dependent on buyer-supplier interaction and therefore they cannot be standardized" many suppliers pointed out. As a result, the offerings presented to the buyers may be more or less standardized while the services carried out are not. The offerings do not necessarily correspond to the services delivered. One supplier commented:

> *"If we were to deliver what is ordered the quality of our services would deteriorate since the specifications are based on measurable criteria, not on actual needs. Therefore, we always change the specification as we go along"*

The evaluation procedure not only requires that the offerings are comparable, but also that they are based on measurable criteria that may be objectively evaluated. The criteria should preferably be ranked in order of preference. For example, if low price is considered the most decisive evaluation criteria the supplier offering the lowest price should be given highest score with regards to the price-criteria. In the end, the scores for various evaluation criteria will sum up to a total score that positions the potential suppliers on a ranking list. This ranking list will then show, in numbers, where the potential suppliers are positioned against each other, and thus help the buyers make rational supplier selections. The respondents reacted strongly to this procedure by pointing out that "the APP requires that consulting services are measurable" and that "consulting services are not measurable, which is a prerequisite for the APP". According to a majority of the buyers the criteria most important for selecting

management consultants were their 'ability to establish trust and confidence', as well as their 'ability to collaborate'. Their complaints about the regulation often pointed to their perception that "the APP is not suitable for services where trust and confidence are important, or "the APP does not allow us to take the consultants personal traits into consideration". Several respondents also argued that the supplier's ability to cooperate and establish trust is extremely important for successful implementation of advisory services and helps reduce purchasers' uncertainty.

Another consequence of using objective, measurable factors as basis for supplier selection is that criterion such as "prior experience" and references are heavily emphasised. Many suppliers argued that 'prior experience in public sector assignments' are used as substituting factor for subjective evaluation criteria that are essential to the project, but that counteracts with the principle of equal treatment. For instance, one buyers pointed out that

> *"The supplier's personality is crucial not only in the supplier selection but also in the implementation of the project. The best way to judge a supplier's personality is through face-to-face meetings. The problem, however, is that meetings are more or less prohibited in public procurements since the principle of equal treatment would demand that you meet with every single potential supplier"*

As a consequence, substituting factors in which buyers rely on other people's opinions are emphasised even more. One supplier argued that "in the public sector our international experience isn't worth anything. If you don't have prior experience of working with Swedish authorities, it's almost impossible to win a contract".

The exchange process

Although most actors generally disapprove of the regulation their criticism seems based on different grounds. Two primary avenues of enactment becomes apparent in the respondents statements – one in which the buyers try to adhere strictly to the rules of the APP, and another in which the rules are more or less ignored.

In the former cases the process is perceived as extremely resource-demanding and bureaucratic. A public buyer argued that "nowadays the procurement requires so much work that we sometimes have to postpone the project in question" and another buyer gave an illustrative example of the process:

> *"We were purchasing an investigation service in which we did not prescribe the methods we wanted the consultant to use. After selecting a consultant who suggested "interviews with employees" as an implementation method, we were criticized for selecting suppliers on grounds that were not stated as selection criteria in the specification. We had to recommence the entire process and this time we included "interview with employees" as a required implementation method. Then we were criticized for prescribing the assignment and thus excluding a priori those potential suppliers who could not offer that kind of service.*

In the latter cases where the APP is more or less ignored the buyers revealed that "it is possible to get around the APP in order maintain established supplier relations, but it costs a lot of energy". Our respondents pointed primarily to three possible ways to deal with the regulation while at the same time sustain established supplier relations: avoiding it through decomposing assignments; work around it through manipulating specifications; and inventing new ways through frame-agreements.

Procurements under a certain threshold value can be purchased directly without having to abide to formal requirements. Consequently, purchasers may decompose the project into smaller assignments or use the threshold value as the primary determinant when deciding the scope of the assignment. Several respondents pointed out that this was done fairly often in sourcing of management consultants. For instance, several suppliers brought up examples of procurements where the assignment was divided into one pre-purchase part and one implementation part.

However, the legal system lacks a control mechanism for this kind of bypass methods. It may only penalize those who have tried (but failed) to procure according to the regulation. In order to appeal to court there has to be a rejected supplier who are able to appeal. If the procurement has been done directly, without formal requirements, there are no rejected suppliers. A communal buyer pointed out that "if you do not follow the APP there is no risk of legal sanctions", and buyers in another report by the National Board for Public Procurement (NOU, p.41) said that "a purchasing entity that tries to comply with [the APP] carries a greater risk of being punished than those who ignores the law completely".

Another method for bypassing the principles of the APP is to specify the assignment so as to fit one preferred supplier perfectly. This can be done by constructing the specification in a way that favours suppliers who are particular strong in these areas. Suppliers maintain that this is a common way of handling the regulation efficiently, while still contract the preferred supplier. The method is described by a public buyer:

> *"We formulated the requirements in the contract document so that supplier X would fit perfectly. Many of our framework agreement users wanted to work with supplier X. If X had not been included, the users would probably turn to that firm directly, and what then is the point of framework agreements?"*

Rejected suppliers who consider themselves victims of illegal procurements may file a complaint or sue for damage. Among the consultants in the study, however, none had ever filed an appeal or a complaint. The reasons are, they argued, that they do not want to harm their reputation; they do not want contracts awarded under such circumstances; or because it is very resource demanding. In the study made by the NOU similar findings were presented; 60 percent of the suppliers said there was a risk of being "blacklisted" if they filed for an appeal.[6]

Purchasers may also manipulate the specifications is less obvious ways. They might, for example, construct the evaluation criteria and their order of preference in ways to ensure that preferred suppliers may be awarded. The most heavily weighted, decisive criteria in the procurements referred to in this study were "previous experience of assignment in the public sector" and "references". As many suppliers pointed out these criteria in effects counteracts the idea of competitive tendering since they exclude those who do not have it.

Frame-agreement: an alternative market exchange practice

Frame-agreements allow purchasers to sidestep the regulation in a legal way. It is a fully accepted purchasing method frequently used in public purchasing. About half of the purchases referred to in the study were procurement of frame-agreements. Several respondents pointed out that the use of frame-agreement has increased extensively since the introduction of the APP.

Frame-agreements are used to assign a number of suppliers to be used for various future assignments within a time frame of typically 2-4 years. The procurement of the frame-agreement itself must be conducted according to the APP, but once it is put in place it allows purchasers to procure directly without having to abide to the regulated process. Buyers argued that they prefer frame-agreements because "to do single procurements each time you need to buy something is far too time-consuming because of the regulations", and "the cost of single procurements is far too high, both in terms of time and resources, because of the APP". Frame-agreements are not only cost efficient, according to the respondents, they are also used to maintain and further develop supplier relationships. They allow buyers to contract the same supplier for different assignment over a long time-period.

However, as many suppliers pointed out, in this sense frame-agreements may actually distort market competition. Since they allow buyers to repeatedly contract preferred suppliers without having to

6 Effekter av lagen om offentlig upphandling ("Effects of the Public.
Procurement Act), NOU, 1998. Page 41 (in Swedish).

procure according to the regulated steps in the APP they actually counteract the principles of equal treatment and transparency. One supplier pointed out that

> *"Frame-agreements do not guarantee you any contracts. You might be tied to an agreement for several years without ever getting a job. It is just a way for buyers to keep on contracting the suppliers they already have established relationships with."*

For instance, the frame-agreements referred to in the study were very broad, ill-defined and typically covered a wide spectrum of different consulting services. In several cases some 20 or more consultants were tied to the same agreement. In one example every bidding supplier, 60 consultants in total, had been included. However, being assigned to a frame-agreement does not guarantee any assignments. Suppliers assigned to the same agreement have to compete for contracts. This may leads to fierce competition among the suppliers within the frame-agreement. Many suppliers pointed out that frame-agreements are perceived as risky, not only because they offer no guarantees, but also because they are so ill-defined that "the procurement becomes a guessing game". One buyer gave an example:

> *"A frame-agreement procurement was defined as the purchase of "organization development" services, proposing workshops and seminars as implementation methods. But, what exactly are "organization development" services? They could involve anything from recruiting a new boss to restructuring or even downsizing the entire organization. And perhaps workshops and seminars do not solve their problem at all. As a bidding consultant, it is more or less impossible to formulate an appropriate offer on such brief information, let alone price it. So, if you try to get some more information by calling the procurement office, the only answer you get is: "We want you to propose different solutions, we won't say more than this."*

Furthermore, for suppliers outside of frame-agreements the market is more or less closed. "It is extremely difficult to win contracts in the public sector if you are not tied to a frame-agreement", several suppliers pointed out. Some of them revealed that they actively look for potential partners who are already tied to public frame-agreements in order to increase their chances of getting assignments. A few respondents even argued that the entry barriers to public markets had actually increased since the introduction of the APP, partly as a result of the widespread use of frame-agreements. One public buyer explained:

> *"Small or newly established suppliers have difficulties getting awarded in public procurements. They might not have the financial stability or the amount of personnel we often required in our frame-agreements."*

Because of the time-frame and scope of frame-agreements the suppliers are often required to prove their sustainability in terms of financial stability and personnel. This gives the larger, well-established suppliers a considerable advantage in frame-agreement procurements.

Discussion

We have in line with Orlikowski's argument above given examples of actors' enactments of the APP in their qualification process: how they ignore the law; how they work around it; and how they invent new ways of using it. Subsequently we will bring into the analysis the APP as an active force participating in this process. Following Callon and Muniesa's (2005) the active forces intervening in the calculation of goods are distributed among human and non-human calculative agencies that make up collective hybrids. In this perspective the APP is a non-human agency that is not only an instrumental tool, but an entity that participates in performing the calculation. As such it has contributed to forming new ways of calculating decisions in public procurements.

The power of the APP as a calculative agency has not only proven to be influential, it is evidently a force that contradicts the interests of both buyers and suppliers. The conflict that arises could be seen as a struggle of calculating the value of the good being exchanged through the processes of assigning objective properties to the service (objectification) and positioning the service in relation to other services (singularization).

The conflict between the APP and the interests of the suppliers is quite obvious: the APP aims at making the suppliers substitutable, and the suppliers argue, for obvious reasons, that a complex service such as management consulting services cannot be interchangeable, let alone standardized or measured. The conflict between the APP and the buyers is perhaps more intriguing: In the buyer's view the APP tries to objectify the service by limiting it to its objectively measurable characteristics, such as price, number of consultants, financial stability, number of references etc. This does not necessarily correspond to what the buyers are interested in buying. The buyers value subjective qualities such as suppliers' ability to establish trust and confidence, their ability to cooperate, their reputation, etc. These characteristics seem important, not to say essential, for the singularization process. In most buyers' view mutual confidence and collaboration are required if the service is to be adjusted according to their perceived needs. Preferably, these adjustments take place in personal meetings between buyers and suppliers. However, under the APP personal meetings are avoided since they conflict with the principle of equal treatment. In essence the APP seems to offer little room for adjustments to occur. It merely offers a list of potential suppliers where these are ranked according to the scored received for their measurable characteristics.

So what will happen when the collection of calculable agencies have conflicting interests and aim at creating different results? The buyers will apparently acquire tools to change the balance of power in order to direct the objectification and singularization processes in their preferred way: they may, for example, manipulate the specification in a way that makes it point to the result they want to see by, for instance, emphasizing the importance of 'prior experience' and 'references'; as it appears they may also mask, or conceal, the procurement process by pretending to follow certain transparent rules while, in practice do something else; and they might even ignores the APP altogether. The suppliers also try to shift the balance of power in their favour by, for example, ally with firms that are already tied to frame-agreements or market their brand by taking part in as many public procurements as possible.

Most interesting, perhaps, is the increasing praxis of using frame-agreements. Frame-agreement could be seen as a way to decouple the APP by making it a formality, a tool used only for the sake of appearance. The frame-agreement practice allow buyers to use the APP as a tool for objectification on a higher, or more formal, level, such as defining potential suppliers according to their financial stability or their size, but it has no influence on the part of the transaction where the singularization take place. Once a number of potential suppliers are assigned to the frame-agreement the buyer is "free" to continue the transaction as he or she prefers (e.g. meet with potential suppliers in person, make choices based on trust, etc). Furthermore, as frame-agreements allow buyers and suppliers to develop and maintain established supplier relations they may avoid the 'heavy investment' that is required "in the exploration of the network of attachment constituting the buyer's (potential) world" (Callon and Muniesa, 2005, p. 1234).

Following Callon and Muniesa's reasoning, the evolving practice of using frame-agreement could serve as an example of how algorithmic configurations of market encounters should not be regarded as structures that already exists (and in which calculative agencies simply circulate), but rather as architectures that the actors to varying degrees are engaged in designing.

Concluding remarks

Our study show that actors in public procurement will not just adapt (or reject) to the APP, but they may also circumvent inscribed ways of using it. Whether the result is an increasing use of frame-agreements or supplier selections based decisively on "prior experience in public sector", or perhaps

more illegal bypass methods, the effects are in effect counteracting the aim of the market intervention. These, more or less, unanticipated results of enactment not only contradict designers' expectation and inscription unintentionally, but the primary purpose of these practices is to counteract, or avoid, the inscriptions. And the results are themselves contradictory to the stated aim of the APP: competition is narrowed by new barriers; equal treatment is shadowed by biases, and transparency is diffused by new knowledge processes.

Buyers and suppliers will of course enact the law while also being located somewhere – they act and make distinctions in a collective domain of action (e.g. Tsoukas and Vladimirou 2001). They draw on their knowledge and experiences within the institutional context in which they act, and different conventions that could be associated with participating in such contexts (Meyer and Rowan, 1977). In the case of public procurement according to APP it is not necessarily the actors who act according to the already established conventions, or norms, that are rewarded, especially not since such behaviours in many ways are illegal. Rather it is the buyer who is skilled at balancing the norms and the regulation that will be considered most professional, and it is the supplier who enables and helps facilitate this balance that will be rewarded contracts. Thus, the system rewards those actors (buyers and suppliers) who have the skills to manipulate the system, rather than the ones who use it correctly. This behavior is even indirectly advocated, or might be interpreted as such, in the primary paragraph of the APP where it is stated that purchasers must act in accordance with "the conventions of good business practice". Since the law does not declare what those conventions are it offers an opportunity for actors to make subjective interpretations of what is meant by good business practice and when these practices contradict the behaviour anticipated by the regulation the users' enactment of the regulation makes them find creative ways to circumvent it – they create new knowledge.

One of the essential implications of this study is the significance of broadening the research criteria for studying the APP as a market intervention. Traditionally, researchers focus on different kinds of narratives, or text-based material that arrests what people do when practicing the APP and how the intervention can be developed in tune with the users' preferences (e.g. Lindberg and Furusten, 2005). A fuller understanding of the "market interventions" requires not to overlook the fact that people know what they do and why they do it, nor to suggest that the conventional studies are not productive. Instead, it would perhaps be beneficial to go beyond the conventional parameters that are found in research about "market interventions". That is why we have structured our concluding discussion in terms of calculative good, calculative agencies and calculative exchanges (Callon and Muniesa, 2005). Such a discussion may be fruitful from following angels: First, the APP is one example of a new practical form or configuration of confrontation between supply and demand; it deals explicitly with the recurrent concerns regarding the markets influence on justice and equity versus personal relationships (ibid, p.1245). The buyers and sellers could be said to work as calculative agents, which in turn generates different asymmetries in the market. New calculative spaces are generated, which encompass different asymmetries. Secondly, the APP is certainly not perfectly constructed, but what has been illustrated is that the law seem to posit a mechanism which itself "programmes" the appropriate form of enacting upon it. Perhaps the great challenge with the APP is that deviation no longer is regarded as consequence of the imperfection of its construction, but something that could be encapsulated more or less strictly within the law.

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