

Marketing and ethics in competitive tendering procedures

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Abstract:

Due to their nature, their economic importance and the stakes they represent, projects deals frequently generate ethical dilemmas. They often have a profound impact both on the environment, the society in which they are developed and in shaping the industry's culture (several companies are involved in designing, executing and maintaining the projects). Hence, projects are a typical "playground" where a variety of actors, relationships and stakes – economic, technical, social, environmental and political – are at play.

However, very little work addresses the issue of ethics in project deals. Recently, the Project Management Institute (PMI) has published a Member Code of Ethics and Member Standards of Conduct as ethical standards for project management. This Code however relies on very general ethical principles and is as such not specific to project deals. Therefore, project practitioners have no precise and practical guidelines to "ethically frame" their exchanges with customers and other major stakeholders. Due to this lack of a specific framework, the Public Procurement Directives serves as the main reference to regulate and define the scope of "fair practices" both in public and private project deals (Cova & Allen, 1989).

This paper addresses the issue of ethics in project deals and its implications for project marketers. Based on a literature review, this paper identifies the principles that can ground the practices of project marketers willing to adopt ethical principles. It analyzes the practices generated by the competitive bidding and concludes that the Public Procurement Directives do not actually constitute a relevant framework to favor the implementation of ethical practices in projects. As acknowledged by Berube & Villeneuve (2002), ethical dilemmas faced by project managers are not always solved by legal rules, especially in controversial situations. This paper argues that the strict applications of the Competitive Procurement Directives based on the lowest price bid may even favor the development of unethical practices.

The last part then analyzes the marketing principles advocated by the International Network for Project Marketing & Systems Selling (INPM). While at first glance some of these principles may be criticized for restricting competition, the paper advocates that several of these project marketing principles can be legitimized as a relevant framework for practitioners willing to develop ethical practices in project businesses. The paper then suggests an analytical grid to review project marketing practices – positioning the concepts of ethics among others concepts such as the legal framework (respect of the law), and the concept of legitimacy towards society (license-to-operate).

I. INTRODUCTION

The theme of ethics in business and particularly in marketing has developed considerably over the last twenty years, both in research and in company practices (Murphy et al, 2005). But it is mostly the sectors of consumer products marketed by large multinationals that attract the attention. Business to business marketing is, on the other hand, much more discreet. Between the two can be found project activities. Projects represent a dominating share of economic exchanges between suppliers and customers on an international scale: they are considered as one of the dominating modes of international business (Hadjikhani, 1996; Günter & Bonnacorsi, 1996; Skaates & Tikkanen, 2003). Due to their nature, their economic importance and the stakes they represent, projects deals frequently generate ethical dilemmas. They often have a profound impact on the environment and on the society in which they are developed. Moreover, their development and operation involve several companies at various stages (design, execution, operation and maintenance) and contribute to shaping the industry's culture and practices. Hence, projects are a typical "playground" where a variety of actors, relationships and stakes – economic, technical, social, environmental and political – are at play. For example, many projects particularly in the building and

civil industry sector have a strong public impact on the neighboring settlement (Glass & Simmonds, 2007) or on the future beneficiaries. This sometimes leads to strong protests against the project stemming from associations, NGOs or local authorities with important media coverage.

As a consequence, the project manager is often torn apart between conflicting interests held by these various actors. Corresponding managerial decisions often question the contractor's responsibilities and ethics (Akhurst, 2003). However, very little work addresses the issue of ethics in project deals (Helgadottir, 2007). As stated by experts of the IPMA (International Project Management Association): *"Today, contrary to traditional professions like medical doctors or lawyers, no commonly recognized professional ethics or values nor universally accepted codes of professional conduct exist for project, programme and portfolio managers... More research and exchange of experience should be done in this field"*. In fact, the subject has received far less attention than the development of standards, certification or other professional matters.

Recently, the Project Management Institute (PMI) has published a Member Code of Ethics and Member Standards of Conduct as ethical standards for project management. This Code however relies on very general ethical principles such as honesty, fairness, responsibility and respect, which are as such not specific to project deals. Therefore, project practitioners have no precise and practical guidelines to "ethically frame" their exchanges with customers and other major stakeholders. Due to this lack of a specific framework focusing on the consequences of project practices rather than just on the moral guidelines that should precede actions¹, the Public Procurement Directives serves as the main reference to regulate and define the scope of "fair practices" both in public and private project deals (Cova & Allen, 1989). Hence, the legal framework seems to constitute the "by default" code of ethics corresponding to a deontological view of ethics.

The objective of this paper is to specifically address the issue of ethics in project deals and its implications for project marketers. Based on a literature review, this paper will firstly try to identify the principles that could ground the practices of project marketers willing to adopt ethical principles. It will then analyze the practices generated by the competitive bidding procedures through the lenses of these general ethical principles and conclude on the capacity of the current procurement directives to instill moral practices. The last part will be dedicated to reviewing in what respect the marketing principles that have been advocated by the International Network for Project Marketing & Systems Selling (Günter & Bonnacorsi, 1996; Mandjak & Veres, 1998; Skaates & Tikkanen, 2003) respect these ethical principles. These marketing principles are based on a utilitarian view of ethics.

II. ETHICS AND PROJECT EXCHANGES

2.1 General ethical principles in business

Ethics in the most general sense (from the Greek word *ethos*) concerns the study of human moral principles with a view to improving them collectively, for more civilization. In our era, ethics has become a practical and normative discipline that is aimed at stating how human beings should behave to interact serenely. Ethics aims at replying to the question "how can people behave together in the best way?" This discipline therefore judges what is good or bad for society as a whole. It establishes what should be done or what shouldn't be done². In contrast with the influence of

¹ This marks a distinction between two different views of ethics that can be found in the literature: the utilitarian or consequential view and the deontological view of ethics. The deontological view originally developed by Kant focuses on the moral principles (what should be done), while the utilitarian or consequential view (G.E.M. Anscombe, 1958), focuses on the utility of the decisions made: "doing the good for the largest number".

² Source: Wikipedia

morality, often subconscious, ethics underlines an intention and constantly questions principles and actions. Ethics therefore is between morality, that inspires it, and deontology that formalizes the decisions preferred in typical circumstances affected by ethical dilemmas.

The ethical decision factors defend the common interest and the good of the general public, while the dominant business logic defends company interests, competing to win projects or customer business and to maximize profit. The co-existence of these conflicting logics gives rise to the need for ethical consideration in business (Berube & Villeneuve, 2002). In business, ethics is a normative discipline, in which specific norms are approved collectively and then applied.

Although marketing is often presented as the business function favoring ethical practices with its altruistic intention of satisfying the end customer (and hence, serving the common interest represented by the community of customers), it also generates several criticisms and ethical debates (Flipo, 2008) based on the following rationale:

- firstly, customer satisfaction is rarely an end in itself but rather a means to achieving a profit and to exploit the consumer to achieve a selfish goal. Based on Kant's categorical imperative³, these most fundamental ethical principles are then not respected by the marketer.
- Secondly, as the managerial function operating the relationship between the company and the consumers, some criticisms challenge the marketing objective (Flipo, 1999). Is the main purpose of this function to support the natural operation of the markets, especially the competitive system⁴, or is marketing aiming at distorting the normal operation of the markets to the firm's advantage?

These criticisms are based on the acknowledgement that the perfect conjunction of the respective interests of suppliers and purchasers is not achieved spontaneously, contrary to the claim made by the theory of « the invisible hand of the market » (Smith, 1759/1999), as each party seeks to use its power to take advantage of the other. As Montesquieu said, entering into power relationships always leads to the risk of "abuse of power", and therefore risks of ethical abuse, or even illicit acts.

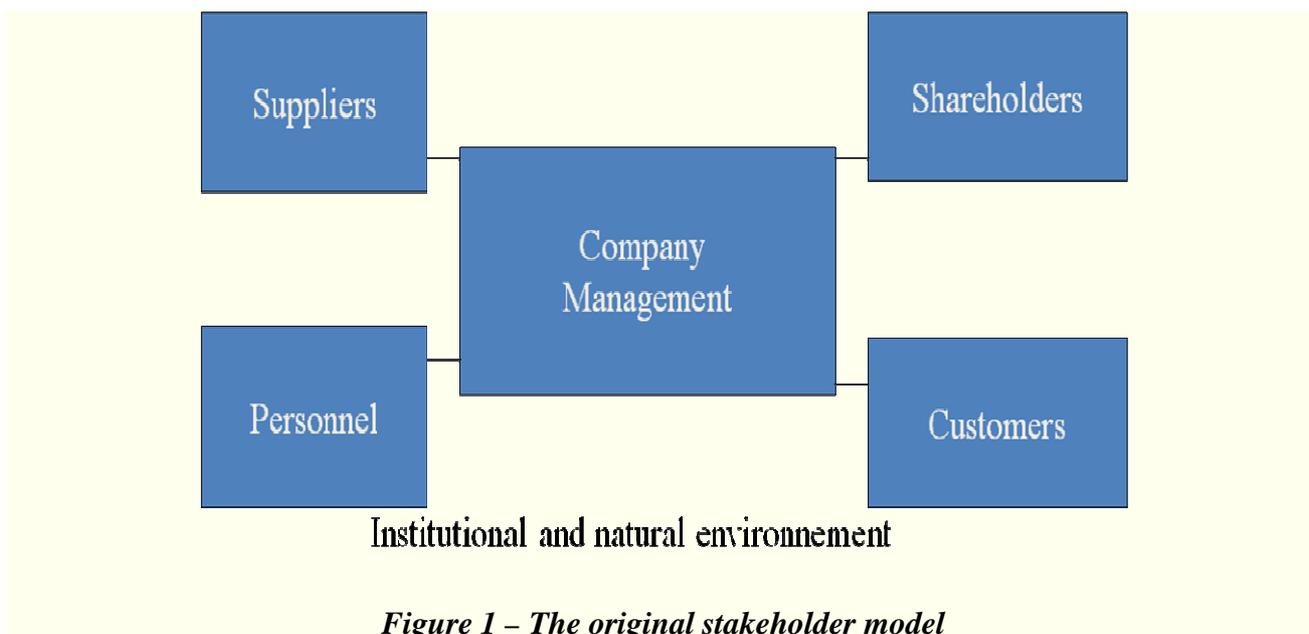
The fundamental ethical question here concerns distributive justice. In other words, what is the allocation of the effort made and profit obtained by each of the parties involved and how is this allocation created? The most unbalanced case is where certain organisations become rich to a morally unjustifiable extent while others go bankrupt or at least record a loss on a deal. The best balanced is clearly the opposite, where all the effort and profit is shared out equitably, the famous « win-win-win... » (as many times as there are parties involved...).

The other important ethical issue is that of the *freedom left to the players* according to the diversity of their identities and strategies. The power of the strong can be exercised to the detriment of that of other actors, who thus find themselves in a position of having to comply with the requirements of the strongest party. This analysis of power games thus constitutes the paradigmatic basis of our approach (Flipo, 1989). Ethical considerations constantly remind that the marketer must take the customer's interests into account just as much as his own in the exchange, in a vision of customer-supplier relationships that are *voluntarily* balanced, not automatically.

³ Kant defines the demands of the moral law as "categorical imperatives." Categorical imperatives are principles that are intrinsically valid; they are good in and of themselves; they must be obeyed in all situations and circumstances if our behavior is to observe the moral law (see Kant, 1996).

⁴ According to the principle of the "free and not distorted market" as set out in the EU Constitution

So far, the ethical logic has been applied to the supply/demand dyads. However, this remains simplistic. In fact, moral judgement brought by society on companies increasingly comes from a large variety of actors who intervene directly or in the background in this exchange, from the distributor to the suppliers, going through groups, institutions or organizations that exert an influence over its content: company employees, NGOs, professional unions... and the State itself that exercises the legislative and judicial power. This had led Freeman (1984) to introduce the model of the stakeholders to depict this enlarged vision (figure 1). Due to its simplicity, this model and the stakeholder management principles that it involves, has become an important tool to transfer ethics to management practice and strategy.



One of the most powerful players in this system is the group of shareholder since they weigh heavily, albeit indirectly, on the offer, by seeking to maximise profit in the exchange. Yet this maximisation collides head-on with the need for a balance between the interests of the parties concerned, sought by the ethical marketing manager: this is the essence of “management”. The ethical intention of the marketer can then be translated by taking into account the common interest in decisions, in other words one that would not neglect any of the parties concerned, including those who have less power to make themselves heard, and all this without preventing the company from making a legitimate profit (thus the *win-win-win...*).

The term legitimacy is introduced to complement that of ethics. On the one hand, it prevents ethical resolutions from going too far which in turn could put the company concerned in danger. On the other hand, it introduces a distinction between “formal” approval of corporate behavior (i.e. compliance to law) and informal approval. The concept of legitimacy is defined by Suchman (1995: 574) as “*a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within the socially constructed system of norms, values, beliefs and definitions.*” For the capitalist company, it is based essentially on the nature of its activity, particularly on its license-to-operate and on the need to make a profit. Faced with strong ethical positions, legitimacy tends to be defensive, for example the profits of certain companies deemed excessive or combined with redundancies (the case of Total, in March 2009), business activities linked to alcohol, arms, tobacco etc. which are legal, but not legitimate in the eyes of many citizens.

We can draw from the above, several general ethical principles that could be used to analyse the practices of project marketers:

- the acceptance of the exchange by the parties involved in the project deal as being desired (principle of freedom), fair and balanced (principle of distributive justice),
- the project does not hinder the general welfare in the short or long run, or the interests of the weakest parties that can not voice their claims.

2.2. Specificities of project deals

The preliminary analysis of project deals is required to understand the principles on which ethical principles can be grounded. Firstly, project exchanges are discontinuous as opposed to exchanges of standardized products corresponding to recurring needs for customers and generating repeat business for suppliers (Guillou, Crespin-Mazet et Salle, 2003). Project deals thus favor a focus on the transaction rather than on the relationship between the parties (Grönroos, 2000; Smyth, 2000).

Projects follow a series of several chronological stages: the identification of a need, preliminary feasibility studies, development of a call for tender, publishing of an invitation to tender, analysis of proposals, selection of suppliers based on the lowest price or the best price/quality ratio, execution and the handing over of the completed work (Cova, Ghauri & Salle, 2002). The competitive tendering procedures initially developed for public markets have become institutionalized and also constitute a dominant purchasing practice for private companies - in that case, in its negotiated form with a limited number of competitors - (Cova, 1989).

This sequential and fragmented development process mobilizes a large number of business and non business actors, directly or indirectly concerned by the project: architects/designers, economists, engineering firms, construction firms, sub-contractors, suppliers, fund providers, insurance companies, control agencies, not forgetting other important stakeholders such as associations representing the civil society, pressure groups, local or international governments, and even NGOs... This organizational complexity led some authors to qualify the project as a “temporary network” (Dubois & Gadde, 2000: 212) embedded in a more stable network or milieu (Cova, Mazet, Salle, 1996).

The stakeholder model mentioned above (Freeman, 1984) seems therefore applicable to project marketing situations provided its scope is enlarged to all the actors concerned by a project in a network perspective (Thorelli, 1986; Hakansson & Snehota, 1995). It rejects a simplistic market approach limited to the vendor and the buyer and explicitly integrates the actors that are not directly concerned by the tender but who can influence its development even after its completion (Flipo, 1989).

The ethical stake of project marketers is therefore very clear: integrate the general interest as well as the firm’s own interest so that each project actor can benefit from a fair distributive justice. The idea is then that main actors use their power to create a value for each and everyone instead of destroying the others’ value. A project can thus be considered as ethical when all of its stakeholders perceive a sense of fair distribution of the efforts and benefits or satisfactions they draw from it.

Aside from the number of actors concerned (quantity, visibility), two other types of factors justify the interest of the stakeholder model in project marketing, linked to the contexts in which projects develop (called “natural and institutional environment” in the general model):

- The time factor: most projects spread over months, years or even decades if we consider the length of the related studies, the execution stage but also the project life span. The project

actors can develop various tactics at the different stages of this sequential development process, including the search of the general welfare.

- The scope of ethical stakes. The project has an impact on two specific stakeholders highlighted by the sustainable development trend – the social factor (workers, technicians involved in the project execution stage) and the environmental factor- the construction of the project having an impact on its physical environment-.

III. ETHICS AND COMPETITIVE BIDDING PRACTICES

As competitive tendering procedures constitute the predominant purchasing methods in project deals (Dubois & Gadde, 2000), we will first analyze their content and their related rules of conduct for project buyers and vendors. Based on the search for cost minimization through a large and systematic call of competitive offers, the public procurement directives aim at respecting the equal access to public orders, the equal treatment of candidates and the transparency of purchasing procedures through anonymous and non preferential selection mechanisms. These rules are included in the compulsory public procurement code and therefore have a legal status.

Based on principles combining competitive doctrine and social justice, “*the public procurement code has progressively been acknowledged as the procedure guaranteeing justice for suppliers and probity for the buyers*” (Cova, 1989). It aims at favoring moral practices (the ground rule for ethics) through the natural regulation of offer and demand i.e. the “law of the market”. In that respect, their principles can be considered as ethical (deontological view of ethics) in so far as they promote transparency and the equal treatment of candidates. The competitive bidding procedure is therefore applied by all the major international fund providers such as the World Bank or the European Union to finance international projects. The dominant practices remain the lowest price or the best price/quality ratio procedures in spite of recent evolutions towards more flexible procedures based on negotiated deals, or public-private finance initiatives (PFI) allowing for an improved dialogue between customers, designers and construction firms.

Our central question is then:

“Does the legal framework favor ethical or highly moral practices in project deals?”

Several authors have acknowledged the limits of the lowest price bid based on pre-defined specifications developed by the customer without any interaction with potential suppliers. Some of these criticisms even stem from public administrations themselves (see for example the Latham report in the UK, 1994):

3.1. Concerning the balance of power between customers and suppliers.

Public procurement directives postulate a disparity of power between, on the one hand, the customer paying for the project often supported by architects, main contractors or consultants considered as having the expert knowledge to write the specs and control the jobs, and on the other hand, construction companies and suppliers considered as “makers” or executants. In French, the first ones are called “masters” and the second ones “servants” (‘the ones who submit their offers’). Under such circumstances, the principle of harmony and distributive justice between the project stakeholders mostly relies on the most powerful actor at each stage of the project development process.

As a consequence of this bidding system, competitors tend to reduce their price and sacrifice their profit margin in their proposal so as to obtain the lowest price. But these abusively low prices sometimes lead their authors to bankruptcy as they start executing a contract that generates

insufficient margins (see for example the various press articles revealing the bankruptcy of several firms involved in the Euro-Disney construction site). This phenomenon is increased during economic crisis periods where competition becomes fiercer and competitive tenders scarcer. The number of unsuccessful tenders in the French public construction projects (for which the price of offers was below the customer's estimated budget) has been estimated at 70% in 2006⁵, and shows that public administrations often expect very low -if not dumped- prices. For example in 2007, 1 300 projects have been contracted in the Rhone-Alps region for a total amount of €540M but many projects have remained unsuccessful. As stated by the CEO of a solution firm making 60 % of its turnover with public markets: *"It's not the formal aspect of the procedures that prevent companies to bid ... it's the too low level of prices expected as compared to the market price and the objective price level defined by our technical services"*. Another CEO selling acoustic systems mentioned: *"we have invested six months of work to respond to very precise specs. The first tender has been unsuccessful as we were the only ones answering the bid, and for the second one, we are not even sure to obtain a decision!"*⁶. The lowest price bid selection is however legitimized by the limited financial capacity of public governments faced with ever growing expectations stemming from the civil society (users and citizens).

The *first ethical problem in project activities therefore comes from the customers* who tend to put an excessive "pressure" on suppliers deemed to make losses if they strictly comply with market rules. The *second ethical problem comes from the suppliers* who strive to regain the margin sacrificed in the offer during the execution stage (Cova, Ghauri, & Salle, 2002) and who make excessive claims or charge the high price for any modification required during the project development, once the contract signed. Such practices have been identified throughout the world (Cain, 2004). The mass media gives us several examples of major discrepancies between the contractual price and the real price paid the public customer and the civil society. For example, the University of Quebec in Montreal paid an extra Can\$40 millions than the \$165 that had been accepted⁷; the renovation of the Lyon Opera contracted for €12.2M and ending up at a cost of €72.9M - almost six times more⁸.

These examples illustrate how the pure practice of competitive bids based on the lowest price generate adversarial relationships in the supply-chain to the opposite of a constructive and cooperative dialogue in a « win-win » logic (Sai On et al., 2004; Thompson, Cox & Anderson, 1998). The last annual report released by the Standish Group International on the 10 factors influencing the success of projects, reveal a marked decrease in project success rates in 2009, with 32% of all projects succeeding which are delivered on time, on budget, and with required features and functions. 44% of the projects are late, over budget, and/or with less than the required features and functions and 24% failed which are cancelled prior to completion or delivered and never used (Standish Group International, 2009). Cain (2004) has highlighted the lack of performance in terms of costs, duration and quality generated by these practices. He estimates at 30% the savings that could be obtained by partnering practices in the construction industry.

3.2. On the power relationships between the various suppliers involved in the project execution (main contractor, construction firms, sub-contractors...)

⁵ In 2004, another study carried out in the south of France concerning social housing indicated a rate of 100% of unsuccessful tenders during the first tender. Source : Cellule Économique Régionale du Bâtiment et des Travaux Publics, February 10th, 2005

⁶ source : « BTP Rhône : l'observatoire contre les marchés infructueux », February 7th, 2008

⁷ source : A Babord, *Revue Sociale et Politique*, n°26, oct-nov, 2008

⁸ source, Le Monde, January 25th, 2005, Sophie Landrin

The sequential project development process is based on the division of the main project into several work packages corresponding to specific trades and fields of expertise. Each project thus generates a variety of smaller projects leading to specific transactions between the companies involved in the design and execution of the project (see figure 2). The main contractor which develops the front-end engineering / design then contracts with various companies in charge of specific work packages, which in turn, will contract with engineering firms, sub-contractors or suppliers to execute the project. The power relationship existing between the owner and the main contractor is then duplicated throughout the project supply-chain and perpetuates the win-lose practices. The company being awarded the contract can thus influence the distributive justice between the members of the project stakeholder network together with the customer/owner which theoretically has the main power.

But the stakeholders can also try to gain power over the customer during the project execution stages, and fight to obtain the largest profits to the detriment of other stakeholders. In this classical economic battlefield, each actor is *legitimate* to defend its own interest based on its power level: the power relationships takes precedence over philosophical issues. This is however perfectly defensible as it is in accordance with the competitive logic of the liberal system.

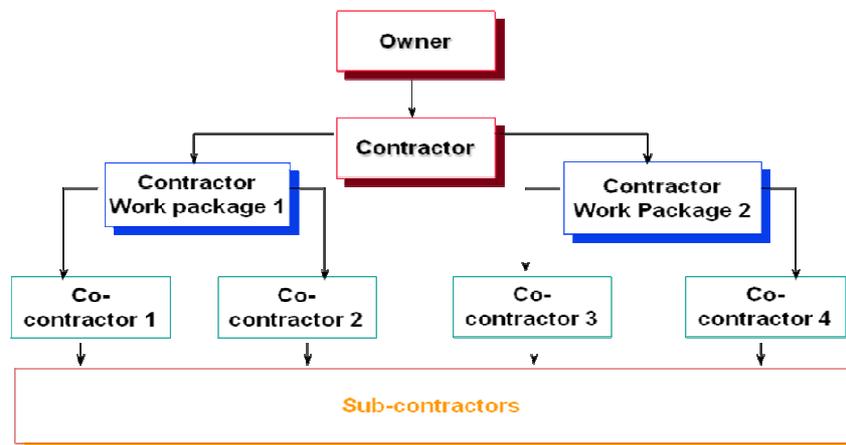


Figure 2 – The general organization of a project

3.3. On the integration of other stakeholders' interests: personnel of the companies involved in the project execution, project users and the civil society.

The lowest price bid invites the suppliers to privilege the project deal (transaction) over the customer's and the project users' satisfaction in a long term perspective (Guillou, Crespin-Mazet and Salle, 2003; Voordjik, de Haan and Joosten, 2000). In its website⁹, the French government even states the existence of an ever larger gap between the users' expectations and the level of services provided by the public sector. The price pressure often forces the project contractors to make a trade-off between security issues, project quality and the competitiveness of their proposal. The consecutive lack of security can affect both the project users, and the staff of the companies involved in its execution. The examples at hand are unfortunately very numerous. The accident of the Parisian airport – Roissy Terminal 2E- in 2004 which caused 5 deaths and 4 injured people occurred in a

⁹ Source : www.ppp.bercy.gouv.fr

context of considerable time pressures¹⁰, or the closing down of the Lyons' Opera after the crash of a glass ceiling in the roof... The civil society is often the first victim of projects which impact their environment, the social relationships in the neighborhood and even their economic situation in the long run (see in particular the numerous energy projects such as nuclear plants or water dams, etc.).

The strict application of the law and competitive bidding procedures can thus lead to economic nonsense: the pressure of customers to reduce the prices can lead some suppliers to jeopardize their economic health and even conduct them to severe losses or bankruptcy. This already contradicts ethical principles. But worse is that the same suppliers are encouraged to apply the project specifications in their most restricted sense, i.e. to deliver the lowest possible value for a given price. Respecting the project specs then becomes a strictly legal constraint but not a customer's satisfaction objective (marketing objective). The ethical flaws are then due to suppliers' practices: the delivery of below-standard quality projects which can generate physical injuries (during or after the project execution), negative environmental impact as the environmental stakes and their potential solutions have not been integrated upstream in the project budget; the use of illegal workers or workers depending on the social rules of their country of origin ...

IV. PROJECT MARKETING AND ETHICS

As a consequence of the disparity of power relationships between owners and vendors, project suppliers have attempted at developing marketing actions so as to gain some power over a customer having a dominant power. The project marketing literature, and in particular, the works of the IMP and the INPM network of researchers (International Network for Project Marketing) have shown that project marketing actions mostly aim at escaping the tyranny of those competitive bids that do not lead to win-win-win contracts (Cova, Mazet & Salle, 1994). It calls for a more global approach "outside of any project opportunity" aiming at anticipating or even co-constructing the project value with the customer's network (Cova & Salle, 2007). It also calls for the development of complete solutions integrating upstream and downstream services (before but mostly after the project completion) so as to reduce demand discontinuity (Jalkala et al, 2009) and favor the development of cooperative relationships with the stakeholders (Crespin-Mazet & Ghauri, 2007).

Hence, *project marketing can be found legitimate* in its attempt at defending the economic interests of supplier firms and can even be found to integrate ethical objectives. The first one is the cost transparency for the customer and the respect of the announced budget. The second one is the integration of the costs associated to these ethical objectives highlighting their capacity to create value for the customer. This can be achieved through the development of local employment, the respects of sustainable development stakes, and the contribution to an improved distributive justice through the integration of the project users' interests. Hence, the literature and the observation of practices illustrate that several of these marketing initiatives can help integrate the interests of all the project stakeholders and generate a better power balance and global satisfaction. Therefore, project marketing and ethics can be compatible if one accepts to deviate from a strict application of the pure and toughest competitive bidding principles.

As early as 1993, Cova, Daamgard and Mazet showed how a Danish main contractor in charge of developing a railway station and its commercial center, departed from the traditional bidding approach by integrating the future project users and customers: preliminary identification of shop

¹⁰ A press article in "le Canard Enchaîné" revealed in June 2004 that 16 of the 156 pillars on which the terminal was built had not been reinforced even though their weaknesses in terms of resistance could have been detected.

tenants who could settle in the railway center; co-development of their needs and expectations taking into account their future customers, integration and combination of these needs with the requirements of the owner, and then search for fund providers. Since then, several authors have shown the success of partnering initiatives between the various stakeholders of a project enabling to associate the project contractors earlier in the design and the financing stages of the project (Cox & Thompson, 1997; Campagnac & Winch, 1998; Pinto & Rouhiainen, 2001; Bresnen & Marshall, 2000; Sain On et al, 2003; Crespín & Ghauri, 2007). For example, the Private Finance Initiative (PFI) that emerged in the United-Kingdom in 1992 has progressively developed in several countries under various forms. It enables a public authority to involve private companies in the financing and operational management of public equipment. A typical example of a PFI agreement consists for the construction firm to build a public hospital and then operate its non medical activities.

In the private sector, these new approaches are based on project management and concurrent engineering principles rather than on a sequential development process (Garel & Midler, 2000; Crespín-Mazet & Ghauri, 2007). It calls for the implementation of a new coordination mode in project business replacing market coordination mechanisms (competitive tenders as advocated by the law) by cooperation mechanisms (Dubois & Gadde, 2000) involving the major project stakeholders.

To illustrate this point, an independent satisfaction survey realized with the French customers of a construction company -Spie batignolles- who has developed such a marketing approach based on partnering and D&B mechanisms (branded under the name Concertance®)- reveals the following results: 100% of satisfied customers; zero claims linked to costs overruns, quality problems or delays.

Hence, the following principles and insights can be drawn from the above discussions to promote ethics in project marketing:

- Firstly, ethical project marketing needs to go further than the strict application of the pure competitive bidding principles and avoids “hiding” behind the law to favor unbalanced or unfair deals.
- Ethical project marketing replaces coordination based on market mechanisms by coordination based on partnering (Bresnen & Marshall, 2000) or co-development principles (Garel & Midler, 2000; Crespín-Mazet & Ghauri, 2007) involving cooperation between the major project stakeholders.
- Ethical project marketing takes into account the common interest at the same time as one’s own interest, an attitude that is essential so that all the project stakeholders (including the weakest) can benefit, at their level, from the setting up of an equitable distributive justice.

The most important thing is that the principal actors use their power in a way that creates value for everyone, and is not destructive for others. To the moral, ethical and deontological concepts, it is advisable to add the concepts of legality and legitimacy in order to better appreciate the moral judgement that can be brought both to the projects and to the behaviour of the actors that take part in them.

V. CONCLUSION

The law or regulations, particularly those of the competitive bidding procedures are based on the model of the free, atomistic and competitive market. We have noticed that in reality the marketing function is legitimately duty bound to bypass this system to place itself in a favourable competitive position, and this upstream of the calls for tender. The concept of legitimacy then makes

it possible to confirm that these project marketing practices are defensible vis-à-vis the society. This leads us to suggest a preliminary grid to analyze the degree of morality of company practices (table 1). It is based on 3 types of criteria:

- Their respect of the law or regulations: illicit versus law abiding practices
- Their legitimacy: to what respect are these practices defensible towards society?
- Their ethics: to what respect are these practices enhancing value for the project stakeholders and the common interest?

The first criterion corresponds to a non-consequentialist, or deontological view of ethics, while the last two criteria defend a consequentialist, or utilitarian view of ethics. Hence, these three criteria can not be placed on a continuum but should rather be considered as a practical tool to analyze the moral status of project marketing practices.

<p>Deontological view of ethics</p> <ul style="list-style-type: none"> - General principles of conduct: what should be done 	<ul style="list-style-type: none"> - Do marketing actions respect the laws and regulations? - Are they respecting the code of conduct established by the PMI (responsibility, respect, honesty, fairness) or other recognized-organizations?
<p>Utilitarian view of ethics</p> <ul style="list-style-type: none"> - utility of the decisions made 	<p>Legitimacy - Are the marketing actions legitimate i.e. defensible vis-à-vis the society?</p>
	<p>Ethics – Are the marketing actions enhancing value for the project stakeholders including the general public?</p>

Table 1 - A preliminary grid to analyse the moral content of company practices

The deontological view of ethics

The image of a company depends on the moral values that are current in a given society, and that will constitute the basis on how it is judged. The cornerstone is the law, since respecting it is, by definition, demanded of every player in this society. Yet we know that a lot of economic activity or even certain practices are carried out although they are illicit. They are put into operation by managers who consider, rightly or wrongly that they are reasonably protected against public control or legal suits.

The utilitarian view of ethics

Legitimacy - A company’s search for approval is translated by the concept of legitimacy, defined higher up: in fact it refers to a law, no longer legal but moral, to behave in such and such a way. For example there are a number of projects that are vigorously contested by powerful ecological associations such as the nuclear power-stations EPR, or mobile telephone aerials placed above living accommodation. There are also situations that are approved by citizens because they correspond to evolving moral values (therefore justified) but remain illegal, like for example the business of soft drugs in certain countries and even doping by top sportsmen and women. Legitimacy and legality are two notions in perpetual “pursuit” under the watchful eye of shared moral values. Legitimacy is thus the pedestal of the defence vis-à-vis society, of strategic choices or managerial practices, beyond or before -according to the cases-, what is legal.

Ethics correspond to company practices enhancing value for the project stakeholders and the common interest. In terms of approval by society, these are likely to give greatest value to the company, especially to its public image. This is why communication campaigns have advertised the initiatives taken by companies in terms of ethics, sustainable development and Social Responsibility of the firm (CSR).

Among these criteria, the most delicate is that of legitimacy, for this more often concerns the company's activities and practices as whole and not some initiatives regarding ethics that are taken, and often dissipated.

We feel that this grid could probably be valid to analyze the moral status of other types of activity than project business. Further research could focus on testing and refining the validity of this preliminary grid by applying it to several case studies, or testing its relevance with project practitioners both from the supply and the demand-side.

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