



LUND UNIVERSITY

Institutional Barriers to PPPs: - A Case Study of a Road User Charging Development Project

Hultén, John; Gustafsson, Inger; Schelin, Eva

2008

[Link to publication](#)

Citation for published version (APA):

Hultén, J., Gustafsson, I., & Schelin, E. (2008). *Institutional Barriers to PPPs: - A Case Study of a Road User Charging Development Project*.

Total number of authors:

3

General rights

Unless other specific re-use rights are stated the following general rights apply:

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the public portal

Read more about Creative commons licenses: <https://creativecommons.org/licenses/>

Take down policy

If you believe that this document breaches copyright please contact us providing details, and we will remove access to the work immediately and investigate your claim.

LUND UNIVERSITY

PO Box 117
221 00 Lund
+46 46-222 00 00

Institutional Barriers to PPPs: - A Case Study of a Road User Charging Development Project

Inger Gustafsson
PhD student
Blekinge Institute of
Technology
Karlshamn, Sweden
ig@bmt-ts.com

John Hultén
PhD student
Swedish Road Administration
and Lund University, Lund,
Sweden
john.hulten@vv.se

Eva Schelin
PhD student
Linköping University
Norrköping, Sweden
eva.schelin@sweco.se

Abstract

This paper provides a theoretical overview of the of public-private partnerships for policy and concept development. We use a case study from Sweden of a road user charging development project to explore institutional barriers to PPPs and to describe how a more informal co-operation between different stakeholders can be achieved. We also draw the conclusion that this co-operation not only brings added value to the project but also enables an ongoing innovation process which we hope will result in robust project results.

Introduction

Enhanced cooperation between public and private actors is high on the European policy-agenda, not least within the field of transport. In the revised white paper on transport, the European Commission promotes public-private partnerships (PPP) as a means to support development and demonstration of new technologies and infrastructure (European Commission, 2006). Similar tributes to PPP are commonplace in policy documents on national and regional levels.

While PPPs are widely embraced in the language of political decision-makers and business leaders, practical experiences indicate that implementation of such cooperation is easier said than done. A number of factors make true partnerships difficult to realize. The aim of this paper is to explore institutional barriers to PPPs. Specific attention is given to the public procurement policy adopted in the European Union (EU) as such an obstacle. The problem of public procurement related to PPPs came to our attention and spurred our curiosity when being involved in the ARENA-project, a PPP committed to establishing a concept for distance based road user charges for heavy goods vehicles in Sweden. The sponsors of ARENA, stressed the importance of involving private industry in the project. The project therefore was developed as a PPP with public as well as private partners involved. After less than a year, however, it became evident that the industrial engagement put future procurement of a Swedish road user charging system at risk. The solution was to reorganize the partnership in a way that excluded certain private actors from being directly involved in the partnership. Instead an industrial forum, open for all interested industrial actors, was established.

1. Research method

The authors of the paper are performing doctoral studies with different focus, i.e. on innovative organization and financing of transport infrastructure, on information sharing in freight systems as well as on implementation of complex technical systems. In this paper parts of our theoretical frameworks are combined and used as a platform to understand our joint experiences from the ARENA project. The experiences are gained through close involvement in the ARENA project, both during the preparation work and as key partners in the ongoing project work. This involvement provides us with an insider perspective and enabled an insight in the complex development of the project, to some extent characterised by personal relations and hidden causes. A review of meeting notes and different versions of the ARENA proposal as well as discussions between the authors form the basis for the case description of the ARENA project.

2. Public Private Partnerships in Context

Governments in most industrialized countries face high expectations from its citizens to solve societal problems and deliver high quality public services. At the same time budget constraints, globalisation and increased complexity has altered governments' capacity to steer and to provide the demanded answers. The *governance perspective* in political science argues that states are becoming increasingly dependant on other actors to develop and deliver public services. Rather than relying on legal and constitutional capabilities, states to a greater extent derive strength from its ability to coordinate public and private resources (Pierre, 2000).

Another perspective is provided by supporters of *innovation systems*, which acknowledge innovation as an interactive process between universities, public authorities and the business community, i.e. the idea of *triple helix*. Brulin et.al. (2003), stresses that it is an empirical fact that innovative development of products always contains a great deal of networking and experimentation under rather chaotic circumstances. The authors also provide an overview of new perception of innovation processes and knowledge formation in the era of globalization. "An alternative model of successful innovation processes that focuses on relationship-building and networking is described. [...] In this perspective the nature of economic accumulation is not based on material assets but on relations. New products and business ideas are seen as the result of many complicated patterns of cooperation and interaction with external actors, sub-contractors, customers, researchers etc. Successful innovation processes are due to how different actors interact rather than to how big or how many they are".

Both perspectives highlight the importance of *networks*. One type of network organization is public-private partnerships. The term PPP is frequently used to describe a wide range of relations between public and private entities that are highly diverse in terms of aims, scope of activities, degree of formality, number of actors involved etc. Within the transport sector, PPP most often refers to arrangements for provision of infrastructure through e.g. the Design-Build-Finance-Operate model. This and similar models resembles traditional structures for public-private interaction in so far that they primarily are based on a principal-agent relationship.

In this paper we are interested in partnerships aiming at policy and concept development rather than implementation. The relationship between public and private actors in such partnerships is better described as principal-principal, implying that the public and private partners are not superior or subordinate to each other but should be seen as equals. Another common denominator for PPP's as scope in this paper is that the partnership is formalized, sustained over a certain period of time and that the parties jointly realize services or policy outcomes (Mörth, 2006 and Klijn, 2005).

3. Institutional barriers to PPP

To form and implement a PPP that actually delivers advantages is not an easy task. Huxham (2003) uses the concept *collaborative advantage* to describe the potential for synergy from working in a partnership, and *collaborative inertia* to describe the often disappointing results from such cooperation. The key question asked by him is "If collaborative advantage is the goal behind both policy rhetoric of partnership and ambitions of practitioners who initiate them, why is collaborative inertia so often the outcome?" (Huxham, 2003). In this paper we explore this by looking at institutional explanations. *Institutions* can be understood as rules that 'prescribe, proscribe and permit' the behaviour of actors. We distinguish between informal institutions on the one hand, and formal institutions on the other.

Informal institutions takes as point of departure that action more often is based on identifying the normatively appropriate behaviour than on calculating the return expected from alternative choices (March, 1989). Values and traditions differ between public and private organizations. Private actors are highly competitive, seeking returns and increased market shares. They are often willing to take substantial market risks, but are chary of political uncertainties that they can do nothing to influence (Klijn, 2005). Private commercial actors are first and foremost interested in profit maximizing, which at times may lead to uncooperative behaviour (Huxham, 2003). Public actors reside in a rather different environment. They can easily accept loss-making behaviour as long as this is tolerated by political and public supporters. More problematic are citizen expectations that cannot be realized and that may create political problems. Public actors therefore strive to control processes as much as possible in order to make sure such problems do not occur. This might cause problems for a partnership arrangement based on mutuality between involved actors (ibid).

Formal institutions are rules as expressed in e.g. basic law, regulations, policies and the organizations set to make this rules, implement them and supervise that they are complied with. Following on a history of graft and corruption, the liberal state was to a large extent designed to define and police the boundaries between private and public (Linder, 1999). Thus, a key feature of the formal institutions making up modern democracies has as a primer purpose to protect public interest from private ones. This has important implications for the possibilities to form and implement PPP's. Certain legislation, e.g. competition and procurement rules, are specifically designed to prevent too much and too unsolicited cooperation between public and private actors. Yet another complicating factor is the many and uncoordinated decision-making arenas that a PPP has to relate to (Huxham, 2000 and Klijn, 2005).

4. Procurement policy in EU

Procurement policy in EU has sought to break down historically close cooperation's between companies and national governments. By means of increased transparency, fairness and competition the aim has been to open up public procurement to the European common market. Most likely, the rules and regulations guiding public procurement in Europe have been efficient in preventing corruption. This is particularly true for standardized products and services. The other side of the coin, however, is that the strictly regulated procurement processes may weaken possibilities to find innovative and flexible solutions for less standardised outputs. PPPs is an instrument for solving complex problems and, as argued by Dutch researchers Klijn and Teisman (2000): "It is clear that tensions exist between the procurement policies of the European Union and the recent interest in public-private partnerships".

In 2004 EU published a directive (2004/17/EC) that more clearly adhered to the needs of a more flexible form of public procurement, which indicates that the European Commission is aware of

the problem. The directive allows public entities to have a dialogue with suppliers during the procurement process, in order to identify and establish the scope on how the procuring entity's needs shall be solved. The same year a Green Paper on PPP and Community law was published with the aim to launch a debate about the need for improved regulatory frameworks. The following consultation indicated that a slight majority of contributors oppose a horizontal PPP initiative at Community level (European Commission, 2005).

5. The ARENA project – a case study on PPP in a research environment

Several activities have taken place in Sweden and the surrounding world during recent years within the field of road user charging for heavy goods vehicles, based on work performed by the European Commission (COM (2003) 132) Final, COM (2003)448). The work is performed by many parties and legal entities, and has changed the playing field for implementation of road user charging and infrastructure financing in Europe. The time table set by the European Commission for the introduction of the European Electronic Toll Service (Directive 2004/52/EC) is quite tight. This has called for a coordinated and integrated action from the Swedish side, to ensure that the activities within the field of road user charges and electronic fee collection are dealt with in an efficient way, both fulfilling Swedish and international requirements, as suggested by the Swedish Commission of road traffic taxation (Ministry of Finance, 2004).

The Swedish approach has been to gather all national expertise under an umbrella project, named ARENA, which started in February 2006. The ARENA is financed by the Swedish Road Administration (SRA) and Vinnova, the Swedish Governmental Agency for Innovation Systems.

The ideas and will to form the ARENA project originated in a regional development project in Sweden called TANGO Collect, where a number of critical areas were identified that should be considered when planning for the introduction of a distance based road user charging system in Sweden (Gustafsson, 2005). The recommendation from the project was not to view a future system as an isolated phenomenon, but instead taking a wider view and focus both on the innovation potential and the consequences and possibilities related to a full-scale implementation, respecting that the stakeholders have different needs and requirements.

The original ARENA proposal planned for the establishment of an industry advisory group. The role of the industry advisory group would be to comment on the development of the concept, provide feedback on the possibilities for realisation and also to contribute to a system architecture open to modularisation. The group was to be kept open for all industry partners who showed interest and wanted to participate. The role of the user advisory group would be to provide input on how a system should be designed to meet the needs of the users. The establishment of these groups would not only support the project work but also meet the requirements from several project actors and financing parties, who put strong emphasis on the importance of including the industry players and important stakeholders in the work.

During the preparation phase two of the industry stakeholders originally planned to be part of the industry advisory group expressed their interest of being stronger involved in the project. The stakeholders were preparing a project of their own with strong focus on requirements on the on-board units. The members of the group involved in the preparation of the proposal discussed how to approach this request. Some partners wanted to keep the project as neutral as possible with regard to industry involvement, as they viewed the ARENA project as a platform to which different industry partners should be able to connect. Other ARENA members saw the benefits of a strong involvement and commitment from industry partners and advocated that the two industry partners should become parts of the project partnership. This included getting a share of the budget as well as being full members of the project's steering committee. After discussion it

was decided that the two industry partners were made full-worthy members of the ARENA partnership and they were appointed responsibility for industrial development of the project's scope. In parallel the preparation work with the advisory groups (industry and user) continued. Shortly after the ARENA started in March 2006 a number of obstacles related to the two industry partners' role in the project could be identified:

- Other industry actors questioned the special status of the two industry project partners. This critic was taken seriously by the project steering committee. The de-facto situation was that the project had industry partners with different status, i.e. two close partners who not only were to receive project budget but also through their membership in the steering committee could influence the direction of the project, while other industry actors in the field could only become members of the industry advisory group, without any substantial influence on the steering of the ARENA project.
- The Swedish Road Administration (SRA) feared that the partnership with the two industry partners would cause problems in a future procurement process, thus excluding them due to the biased connection to concept formulation and development within ARENA. Current legislation also requires public entities to take action if they see risk of such bias. The Stockholm Congestion Charging project had experienced numerous appeals from competing parties in how the procurement process had been carried through, and SRA wanted to avoid this.
- The closely involved industry partners realised that their involvement put their chances at risk in a future procurement of a Swedish road user charging system, as they could be considered biased in the process and therefore not qualify as suppliers.

After a process including discussions between the lawyers of the industry partners and SRA it was decided that the industry partners withdraw from their special role in the partnership. In addition the industry advisory group was reformed into an industry forum. Interested industry partners were requested to register as members. The ARENA documents related to the concept development are open to all members of the industry forum. Where it is considered useful by the ARENA team a consultation process is organised with the forum. An example of this is the seminar organised in Stockholm in May 2007, where the ideas for an enforcement system was presented and discussed. Before the seminar all registered industry forum members received the draft enforcement concept and during the seminar comments were welcome and discussed. This was a follow up on the good experiences from the development of the functional system concept, where the draft concept was presented and discussed during an expert seminar held in Sweden in February 2007, where some 80 European experts from authorities, industry and the academia gathered to discuss the Swedish approach to road user charging for heavy goods vehicles (ARENA, 2007).

6. Conclusions

1. The Swedish way of working towards the goal of developing a robust and viable system for distance based road user charging for heavy goods vehicles has in many ways been successful, much based on its openness towards outside and inside views. This has given the concept and development work valuable input and has kept the discussion and development going both nationally and internationally. The approach of letting a broad set of parties comment on the concept not only has provided the ARENA project with additional knowledge, it has also led to that the concept is constantly challenged by leading experts which ensures a robustness of the concept.

2. The ARENA project is an ongoing innovation process, and just like Brulin et al (2003) it has all the chaotic circumstances innovative development of products and processes always contains. It has been successful in adjusting and adapting to the changing conditions around the project and has also been successful in building and using networks of the academia, experts, authorities and commercial actors in the field, thus ensuring robust concepts and solutions. In this sense the ARENA is a true triple helix project.
3. We define PPPs as a formal relationship between public and private actors on equal terms. The acting parties of the steering committee of ARENA were of the principal-principal type, also when the industry partners were part of the project. The main cause of the exclusion of them where rather 1. the outside competitors and their fairness discussion (informal institutional constraints) and 2. the yet unclear framework for a future procurement process, which made both future suppliers and future procurers wanting to distance themselves from each other, thus adhering to a more classical procurement style of buyer-supplier than a collaborative model for concept development and procurement (formal institutional constraints, Huxham, 2000 and Klijn, 2005).
4. The best ways of organising this type of partnership has not yet been found, as both financed and un-financed actors are taking part in the work. Comments on fairness have also reached the project team, making it difficult to judge which the correct degree of openness is and how to include the actors. The perfect PPP model for this is yet to be found, especially with partners who could become future system suppliers. The partnership between the authorities, the academia and the consultants has not met these kinds of obstacles.
5. It is possible to create close co-operation with industry through other models than project membership, e.g.: industry forum, bilateral meetings and workshops. The establishment of the ARENA industry forum as well as the seminars has enabled an open and fruitful co-operation between parties that in other situations have shown scepticism towards each other. At the seminars competitive suppliers have set down together with potential procuring public bodies and provided comments to the suggested concept.
6. Based on experiences from the ARENA project, we conclude that institutional frameworks in general and procurement policy in particular have a barrier effect to the successful formation and implementation of PPPs, just like Klijn and Teisman (2003) argues that "Real partnerships do not (yet?) fit in with the institutional rules, roles and habits based on a public-private division at the beginning of the 21st century".

In summary, throughout the ARENA project there has been strong focus on openness and cooperation as the general work-style, thus enabling an efficient concept development, however not always fitting in to the general procurement protocols and existing PPP models.

7. References

1. European Commission (2006). *Keep Europe moving. Sustainable mobility for our continent*. Document downloaded 2007-10-23 from http://ec.europa.eu/transport/transport_policy_review/doc/2006_3167_brochure_en.pdf
2. Pierre, J. and Peters, B. G. (2000), *Governance, Politics and the State*, Macmillan Press LTD, New York.
3. Brulin, G., Ellström, P-E. and Svensson, L. (2003), *Interactive Knowledge Formation, a Challenge for Swedish Research and Higher Education*, Paper presented at the conference HSS 03, see www.bth.se/exr/hss03.nsf

4. Mörth, U. and Sahlin-Andersson, K. (2006). *Privatoffentliga partnerskap. Styrning utan hierarkier och tvång?*, SNS Förlag, Stockholm.
5. March, J. and Olsen, J (1989), *Rediscovering Institutions*. Free Press, New York.
6. Klijn, E. H. and Teisman, G. R. (2005), "Public-private partnerships as the management of co-production: strategic and institutional obstacles in a difficult marriage", *The Challenge of Public-Private Partnerships*, G. Hodge and C. Greve (eds), Edward Elgar, Cheltenham.
7. Huxham, C. (2003), "Theorizing Collaboration Practice", *Public Management Review*, Vol. 5, No. 3, pp. 401-423.
8. Linder, Stephen H. (1999), "Coming to Terms with the Public-Private Partnership: A Grammar of Multiple Meanings", *American Behavioural Scientist*. Vol. 43, No.35, pp. 35-51.
9. Huxham, Chris and Vangen, Siv (2000), "What makes partnerships work?" *Public-Private Partnerships. Theory and Practice in International Perspective*. S. P. Osborne (ed) Routledge, New York.
10. Klijn, E. H. and Teisman, G. R. (2000) "Governing public-private partnerships; analysing and managing the processes and institutional characteristics of public-private partnerships" *Public-Private Partnerships. Theory and Practice in International Perspective*. S. P. Osborne (ed) Routledge, New York.
11. European Commission (2004), *DIRECTIVE 2004/17/EC of The European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors*, Brussels.
12. European Commission (2005), *Report on the public consultation on the green paper on public-private partnerships and community law on public contracts and concessions*. Document downloaded 2007-11-07 from http://ec.europa.eu/internal_market/publicprocurement/ppp_en.htm
13. European Commission (2003), (COM(2003)448), *Proposal for a Directive of the European Parliament and of the Council Amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures*, Brussels.
14. European Commission (2003), (COM (2003) 132) Final, *Proposal for a Directive of the European Parliament and of the Council on the widespread introduction and interoperability of electronic road toll systems in the Community*, Brussels.
15. European Parliament and the Council (2004), *DIRECTIVE 2004/52/EC of 29 April 2004 on the interoperability of electronic road toll systems in the Community*, Official Journal of the European Union, Brussels
16. Ministry of Finance/Commission of road traffic taxation (2004), *SOU 2004:63 Skatt på väg (Final report from the Commission of road traffic taxation)*, Stockholm.
17. Gustafsson I. and Schelin E. (2005), *Distance Based Road User Charges – Implementations aspects and Implementation Plan*, Swedish Road Administration, Borlänge.
18. ARENA (2007). *Summary of Road User Charging Seminar, The Swedish Approach in a European context, 6th of February 2007, Malmö*, ARENA, Karlshamn, www.arena-ruc.com
19. Klijn, E. H. and Teisman G. R. (2003), "Institutional and strategic barriers to Public-Private Partnership: An analysis of Dutch cases", *Public Money & Management*, Vol. 23, No. 3, pp. 137-146.

