



STATSKONTORET

Swedish Agency for Public Management

Competition

at the Public/Private Interface

Competition

at the Public/Private interface

Contents

Foreword	5
Commercial activities in public agencies	7
Governance, control and supervision	19
The state as an enterprise owner	29
Public agencies as purchasers	41
Access to public-sector information and infrastructure	53
Alternative market systems	63

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Foreword

Competition has been a topic of heated debate since the early 1990s. Various government commissions of inquiry have striven to analyse its challenges and elucidate its potential. Many of the issues involved apply to the competition that arises at the interface between the private and the public sectors. These have a bearing on numerous policy areas and touch on several central and local government agencies. In many cases the same issue has been dealt with repeatedly, but without culminating in a decision. Instead, yet another commission has been appointed.

In this year's Budget Bill, the Government emphasises the guidelines of administrative policy. Once again, it stresses the need for focusing and demarcation of agencies' core activities. State ownership is to be reviewed, and activities extraneous to the core are to be phased out. Again, too, the Swedish Parliament has addressed the issue of equal competitive terms for the private and public sectors, and asked the Government to propose remedies for the problems involved.

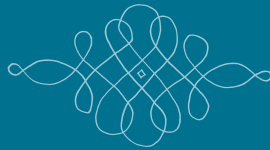
We are publishing this report to disseminate knowledge of the Swedish Agency for Public Management's work on competition issues in the public sector in recent years. We want to share our experience, and we hope it will be helpful in the task of further assessment.

In our ambition to express ourselves as concisely as possible, we sometimes summarise and simplify complex topics. To see the whole picture clearly, one must therefore refer to the reports and surveys that served as documentation for this publication.

This publication covers not only the issues and subject areas that the Swedish Agency for Public Management has investigated. We deal with related decisions taken by the Government and Parliament after we submitted our reports. We also provide a brief account of current proposals from official inquiries that are too recent to have been processed and put into practice as yet.

Readers interested in obtaining more information about this report and its background, or about the work of the Swedish Agency for Public Management on competition issues in the public sector, are welcome to contact us. Further information is also available on our website, www.statskontoret.se/konkurrens.

Pia Bergdahl
Project Manager



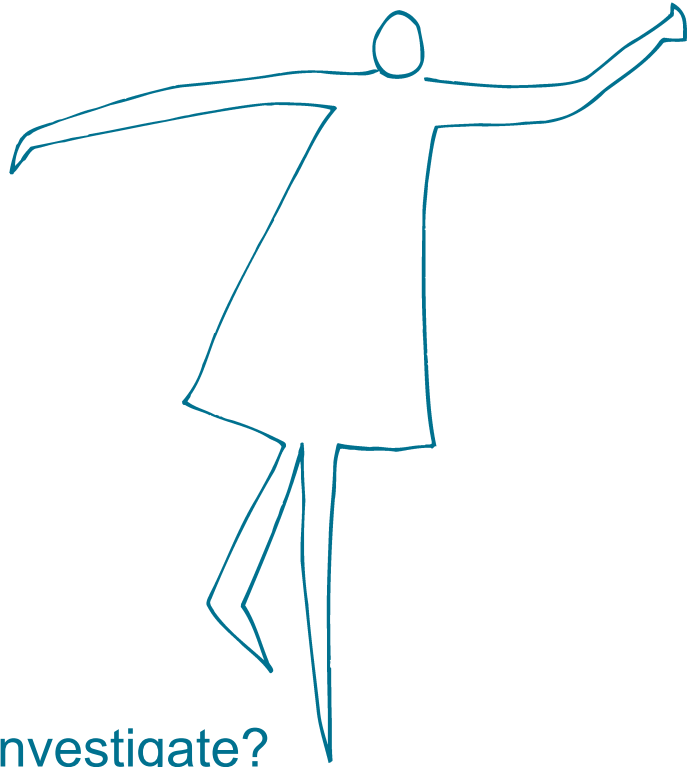
Commercial activities in public agencies

Commercial activities pursued by agencies alongside the exercise of official authority and performance of other public functions give rise to dual and conflicting roles. When the agency is both a purchaser and a producer of the service concerned, it may be difficult for it to act neutrally in relation to other market operators. There is also a risk of cross-subsidisation and competition-curbing underpricing between grant-funded official functions and commercial work in a competitive environment.

Extensive commercial activities may also mean that an agency loses its focus on official tasks, and that work on developing these activities becomes a relatively low priority.

List of reports

- ◆ *Bolagisering av uppdragsverksamheter – Arkeologi, Lantmäteri, Vägverket Produktion*, Incorporation of Commercial Activities — Archaeology, Land Surveying, Roadbuilding (364/97-5)
- ◆ *Statlig konkurrensutsatt verksamhet*, Central Government Activities Facing Competition (1999/0276-5)
- ◆ *Staten som kommersiell aktör*, The State as a Commercial Operator (2000:16 and 2000:16A)
- ◆ *Målet är en effektiv och säker pensionsadministration – Förutsättningar för en ombildning av Statens pensionsverk från myndighet till bolag*, The Aim is Efficient and Reliable Pension Administration — Should the National Government Employee Pensions Board be Incorporated? (2001:19)
- ◆ *Prognos för SMHI – myndighet, bolag eller både och?*, Forecast for the Swedish Meteorological and Hydrological Institute: Public Agency, Company or Both? (2002:3)
- ◆ *Ett statligt åtagande inom stiftelsen Byggdok?*, State Ownership of the Swedish Institute of Building Documentation? (2003:3)
- ◆ *Uppdrag och upphandling i Lantmäteriet – Underlag för Lantmäteriutredningen*, Commercial Work and Purchasing in the National Land Survey of Sweden — Documentation for the National Land Survey Commission (2003:12)



What did we investigate?

Incorporation of Public Agencies' Commercial Activities

Do commercial activities in public agencies lend themselves to incorporation? The report *Incorporation of Public Agencies' Commercial Activities* assesses such activities in the National Heritage Board, National Land Survey of Sweden and Swedish Road Administration in terms of the Government's incorporation criteria.

The State as a Commercial Operator

Many central government agencies and state-owned enterprises (SOEs) sell goods and services in competition with private companies. We have surveyed and analysed these activities and, in various case studies, examined their impact on competition and growth in detail. For example, we investigated the commercial operations conducted by such agencies as the National Rail Administration, National Land Survey, National Board of Forestry, National Labour Market Board, Swedish Board of Fisheries, Swedish Meteorological and Hydrological Institute

and Swedish Maritime Administration. We have also reviewed earlier reports and studies covering the issue of state commercial activities from the competition point of view. Our own and other studies form the basis for a number of proposed measures to reduce competitive distortion.

National Land Survey

We have investigated how commercial work and local official services in the National Land Survey have been developed, controlled and regulated. We have analysed whether criteria for organisational and financial separation of activities may be deemed to be fulfilled. We



An agency with large-scale commercial activities may lose its focus on, and interest in developing, its official tasks.

also discuss the advantages and disadvantages of commercial work from the viewpoint of the agency and that of the market.

Swedish Meteorological and Hydrological Institute

We have overviewed various ways of organising the official functions of the Swedish Meteorological and Hydrological Institute (SMHI) in relation to its commercial activities. In doing so, we clarified the advantages and disadvantages of a comprehensive assignment for SMHI. These considerations are accompanied by an option involving clearer demarcation and separation of the Institute's official functions from its commercial, competitive activities. The background to the overview was the fact that SMHI had requested conversion into a state-owned limited company of particular 'national interest'. The motive was that SMHI wished to secure better prospects of competing on the European market.

National Government Employee Pensions Board

We have examined the basis for and consequences of retaining the National Government Employee Pensions Board (SPV) as a public agency, converting it wholly or partially into a limited company or abolishing it. In terms of administrative policy, we have analysed whether it would



Many central government agencies and state-owned enterprises sell goods and services in competition with private companies.

be better to concentrate SPV's activities on developing and rationalising its core activities. From a market perspective, we have examined whether the Board's activities are a genuine state responsibility or whether they could be transferred to the market.

Swedish Institute of Building Documentation

We have analysed the role of the state in the work of the Swedish Institute of Building Documentation (*Byggdok*, an independent foundation). Here, the state has evidently not been fully aware of the type of activity in the Institute it has cofunded. Originally, the Institute's purpose was to encourage the spread of information about basic research findings and regulations in the building, property and environmental sectors. However, activities in this independent body have progressively evolved towards also issuing processed ('value-added') information. As a result, parts of its activities are no longer connected with its original purpose.



What did we find?

Incorporation of Public Agencies' Commercial Activities

SRA Construction and Maintenance (one of the three divisions of the Swedish Road Administration, SRA) proved to fulfil all the Government's criteria for incorporation and was therefore deemed a suitable candidate for hiving-off and incorporation. The aims were to improve competitive conditions in the civil-engineering market and enable SRA to focus better on its official responsibility.

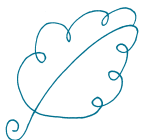
Regarding commercial work in the National Heritage Board and Metria within

the National Land Survey, the question was whether these two bodies could be considered mature enough in business terms to be suitable candidates for incorporation. This was uncertain, although they were both conducted on what were apparently businesslike terms and in competition with other companies on the market. Moreover, for historical reasons, Metria had a highly dominant position or monopoly in certain partial markets of a local and regional nature. It was therefore doubtful whether competition there could be developed without taking special measures to end Metria's dominance.

We proposed further investigation of these issues and measures to tackle the competition problems. Subsequently, the question of Metria's incorporation and commercial work in the National Heritage Board could be addressed again.

The State as a Commercial Operator

We found that nearly all the public agencies and all but one enterprise studied



Uppdragsverksamhet ('commercial' work or activities) is not defined in the agencies'

official appropriation documents or directives. In practice, an agency decides for itself what it does and on what scale.



The issue of state operators' presence on the market looms particularly large for SMEs on local markets. State activities need not be particularly extensive to prevent an SME from entering and competing.

were engaged in commercial activities subject to competition. In the agencies alone, these activities had an annual turnover of some SEK 20 billion. Adding the companies, aggregate turnover was nearly SEK 260bn a year. It was not always easy to see how the commercial work fitted in with the core activities. The motive for carrying out the former was therefore also unclear. The term *uppdragsverksamhet* (referred to here as 'commercial' work or activities) also proved not to be defined in the agencies' official appropriation documents or directives. Accordingly, in practice, the agencies decide for themselves what they should do, and on what scale.

A quarter of the agencies' commercial activities are in a risk zone: they risk severely distorting competition and reducing start-up propensity on the market. The reason is that the fundamentally separate conditions applying to state and private operators mean that they do not compete on equal terms. It may be a question of unique access to strategic infrastructure, or of commercial work conducted in the agency enjoying a head start or special advantages with respect to securing assignments. But ultimately it is a matter of the state operator being guaranteed by tax revenues, and of the lower financial risk this entails. A state operator can hardly be conceived as going bankrupt.

The issue of state operators' presence on the market looms particularly large for small and medium-sized enterprises (SMEs) on local markets. State activities

need not be particularly extensive to prevent an SME from entering and competing. In terms of both economic and regional policy, state commercial activities therefore restrict or eliminate growth.

From the agencies' point of view, commercial activities bring about an increase in revenue that may be welcome, especially in times of budget austerity and reduced agency grants. From the viewpoint of public administration, however, these activities are in danger of assuming such proportions that agencies' core activities and development of their official functions suffer.

To remedy the problems of competition, we proposed three general measures, three measures based on activities and a range of specific measures for the cases studied in particular. The general measures were as follows. The notion of *uppdragsverksamhet* should be defined for all agencies. Separate accounting of 'income from charges in competition' should be required. We also proposed setting up a special supervisory function for public-sector activities facing competition, with the right to intervene against public-sector operators' competition-restricting behaviour.



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The proposed measures connected with activities were threefold. First, strategic infrastructure should be made organisationally distinct, i.e. become an organisation in its own right. Secondly, an organisational distinction should be drawn between non-commercial and commercial activities, with the latter placed in, for

example, a separate enterprise. Thirdly, the portion of state activity subject to competition should be increased through competitive sourcing.

National Land Survey

The National Land Survey of Sweden is engaged in commercial consulting business in parallel with grant-funded official activities, with no sharp organisational boundaries between the two. There are also shortcomings in terms of separate accounting of costs and revenues for the various branches of activity. This entails a risk of cross-subsidisation and underpricing in the portion of activities subject to competition.

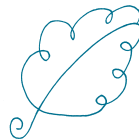
This agency's dual role as both purchaser and producer affords advantages in competition with others. The integrated organisation gives in-house consulting operations unique access to the agency's databases of geographical information, the 'National Land Survey data'. As an agency, the Survey also possesses both low-cost sales channels and 'public-sector goodwill' that the consulting business can exploit.

As this business expands, there is a risk of the official functions being toned down and getting less resources and scope for development.

We therefore proposed that the commercial consulting operations in Metria, which face competition, should be separated from the agency. We also recommended hiving off what are known as the 'local official services', i.e. consulting assignments connected with official



As the consulting business expands, there is a risk of the official functions getting less attention, resources and scope for development.



An efficient market for meteorology, hydrology and oceanography cannot exist unless SMHI and other market operators conduct their commercial activities on the same terms.

business carried out by the county survey authorities in competition with private survey companies.

SMHI

An efficient market for meteorology, hydrology and oceanography presupposes that the commercial activities of the Swedish Meteorological and Hydrological Institute (SMHI) are conducted on the same terms as those of other market operators. Society's need for information that is vital to society, and other services within the framework of SMHI's core activities, mean that it must provide this information and these services on as broad a front as possible and on a non-profit basis, and give priority to these functions.

From a market perspective, however, competitive conditions are distorted by the special, favourable terms on which SMHI's activities are carried out. The fact that the agency performs activities in a competitive environment with no strict demarcation between them and its grant-financed official functions creates a risk of cross-subsidisation and underpricing.

From the viewpoint of the agency and public administration, there is a risk of the business operations being pursued at the expense of the agency's core functions. Incorporating the agency to enhance its capacity to exploit business opportunities abroad, as SMHI has proposed, would probably exacerbate this risk.

We recommended precisely defining and focusing on the official functions,

and reallocating grants according to a purchaser model. The commercial operations should be detached from the official functions to form a freestanding organisation. We therefore proposed that SMHI, in an initial phase, should be split into an agency on the one hand and a company for purely commercial activities on a competitive basis on the other. Thereafter, the remaining commercial work in the agency should be progressively exposed to competition. In a second phase, the Government and Parliament could address the issue of whether it would be appropriate to form a more focused ‘network agency’ without any commercial work.

National Government Employee Pensions Board

We dismissed the need for a special agency to administer pensions for central government employees. This was because further retrenchment of this state activity in the long run will substantially boost costs and impair scope for performing the work efficiently. Similarly, the option of incorporating this activity was rejected since it was uncertain whether the enterprise could be profitable. Otherwise, the state would be obliged to take a major risk in work far removed from its core activities. In our view, there was no justification for the state to engage in business operations on a private competitive market for pension administration.

Owing to several uncertain factors, we recommended that the National Government Occupational Insurance Board

should take over SPV’s state pension administration during a transition period. Thereafter, pension administration should instead be procured on the market. We also proposed phasing-out of SPV’s business activities.

Swedish Institute of Building Documentation

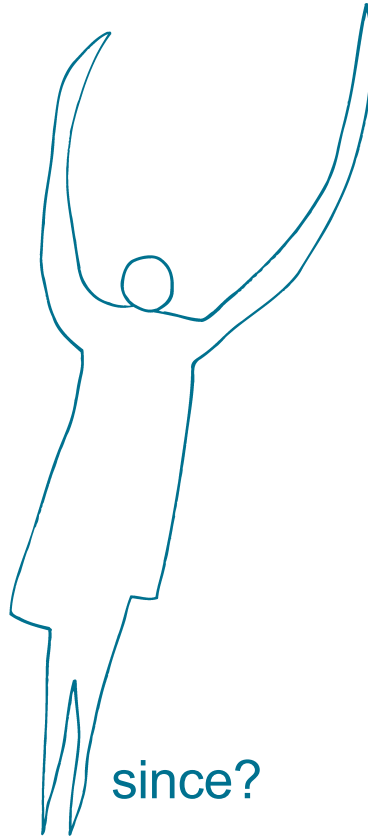
We have distinguished the central government’s responsibility in the Swedish Institute of Building Documentation. The Institute’s library provides basic information about research findings that the state is responsible for collecting, processing and disseminating. To enable information about research results to be copied, provided free of charge and made available on loan, the library and its appurtenant database should be transferred to the Library of the Royal Institute of Technology (KTH) and the LIBRIS system of library data.

In our view, provision of value-added information should not be included in a state commitment. Instead, it should be offered by private firms on the market. The database of the Swedish Institute of Building Documentation, which contains such information, should therefore be administered without government grants.



Provision of value-added information should not be included in a state commitment.

Instead, it should be offered by private firms on the market.



What has happened since?

Incorporation of Public Agencies' Commercial Activities and the State as a Commercial Operator

The Government's 2000 action programme *Public Administration in the Service of Democracy* stated that further focusing of central-government activities should take place. A narrower focus on state functions was the aim. The purpose was to attain a more clear-cut division of responsibility between the central government and other bodies. The agencies' core activities should be safeguarded. The state's responsibility should be carefully examined, and functions extraneous to the same phased out or transferred to others. The action programme was based on the 1998 Government Bill *Central Government Administration in Public Service*.

In its Budget Bill for 2006, the Government again refers to the need for more focused public administration. It addresses a proposal from the Swedish Competition Authority concerning clearer rules for agencies' economic activity and how to

separate it from their official functions. There are also proposals for regular evaluation and assessment of state economic activity.

In autumn 2000, **Parliament** adopted guidelines for competition policy. One of these is that when public-sector operators are active on competitive markets, it should not be in such a way as to hamper market entry and SMEs' operations, in particular. The general action proposals put forward in our report have not, however, been approved by the Government. The special supervisory function we recommended for public-sector activities facing competition has not been realised. The Swedish Competition Council, with its advisory functions in the area of competition on equal terms between private and public activities, has also been abolished. Responsibility for monitoring this area in particular is now among the Swedish Competition Authority's functions.

Problems arising from competition between the public and the private sector



In Parliament's view, public-sector operators in competitive markets must not inhibit private enterprise any more than necessary, and must keep their official functions and commercial activities separate.

have been noted, on several occasions, by Parliament and the Government. One option discussed, as proposed by the Competition Council (2001) and other bodies, is to insert a provision in the Competition Act to increase scope for intervening to combat the agencies' competition-distorting behaviour. Parliament raised the matter with the Government once more in spring 2005, requesting that it should address the matter anew and, as soon as possible, draft a rule of this kind. Parliament's view is that when public-sector operators are active on competitive markets this must not occur in such a way as to inhibit private enterprise more than necessary. Official functions must be kept separate from commercial activity.

Since we wrote our report on *The State as a Commercial Operator*, several public agencies have implemented organisational reform aimed at focusing their official functions and creating greater competitive neutrality in their business activities.

The question of whether to incorporate the commercial work of the Swedish Road Administration (SRA) has been raised on several occasions. Besides the study we carried out, the consulting firm **Öhrlings PricewaterhouseCoopers** has (in 2000), on the Government's behalf, investigated SRA's production and consulting operations and proposed incorporation of the SRA Construction and Maintenance division. Since 2003, mainly owing to the revelation that the division

had belonged to an illegal asphalt cartel, SRA has reformed its internal organisation. However, no incorporation of its activities has taken place.

The **National Rail Administration** has successively exposed a growing share of its activities to competition. In early 2002, the Administration adopted a procurement policy whereby all procurement was to be conducted in a businesslike and efficient manner, exploiting the potential for competition. This policy is also pursuant to the Public Procurement Act. But the policy also prescribes that every portion of the National Rail Administration facing competition should be treated as if it were an external supplier. This is not regulated in the Act.

The **National Heritage Board** has introduced routines for a procedure resembling competitive sourcing when the county administrative board assigns responsibility for archaeological excavations and surveys. In 2002, when the **Parliamentary Auditors** scrutinised the National Heritage Board, one of their findings was that few archaeological assignments were subject to competition as yet. The use of quasi-competitive sourcing has decreased and it is difficult for private surveyors to obtain assignments. In an official statement of opinion in 2003, the **National Board of Trade** stated its finding that applying the Act concerning Ancient Monuments and Finds to commercial archaeological projects of this kind may conflict with the procurement rules of European Community law. The Board proposed a Government review of this Act.

In its interim report of May 2005, the **Forestry Inquiry** proposed amalgamating the state and regional forestry boards to form a single agency. In response to criticism of the boards' commercial activities, the Inquiry recommended discontinuing certain functions and separating the residual commercial work, in terms of staff, from the agency's other

activities. The **Government** has since decided to amalgamate the forestry boards in an agency from 1 January 2006.

National Land Survey

In its final report of autumn 2003, the **National Land Survey Commission** expressed the view that the Survey's commercial work should be restricted so as to supplement, rather than dominate, the market. The Commission recommended the Survey to clarify its commercial role in a market and competition policy. The agency's point of departure should be that it should promote market development for private operators, and not take over the market under its own aegis.

The Commission proposed discontinuation or hiving-off of commercial cartographic work, direct sale of maps, aerial photographs and photogrammetry, geodetic measurement, some activities in geographical information technology, measuring services and detailed local mapping. Production, administration and supply of basic data were to remain the functions of the National Land Survey. However, the agency would be free to order such work internally or outsource them on the open market.

In the Commission's opinion, the combination of internal and external assignments and funding within Metria was problematical from the competition point of view. It therefore proposed clearer demarcation of the two in terms of results. All commercial work for purchasers outside the National Land Survey should be assigned to a special division for external commercial work, subject to the requirement of full cost coverage. On the other hand, the Commission proposed that the local and regional Land Survey offices should be allowed to continue accepting assignments in competition with others, albeit with some limitations.

In a Government Bill of September 2005 on the National Land Survey's work, the Government writes that its commercial

work should be demarcated better than at present and its focus and content clarified. One criterion should be that the activity is not more suitably conducted in another form, and another is that it is conducted in forms that are strictly neutral in terms of competition. It must be financially and organisationally well separated from the agency's other activities. Where there are other operators, the Government's view is that the National Land Survey should naturally restrict its activities in the long term. On the other hand, the Government does not wish to see any restriction of the Survey's work in other respects according to the Commission's proposals.

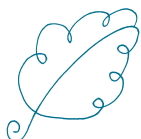
SMHI

The **Government** turned down SMHI's request for incorporation as a limited company. Instead, the Institute implemented a reorganisation from New Year 2003 to afford better demarcation between the agency's infrastructural functions and its commercial work.

The Government also decided that the charges debited to SMHI's business operations for its commercial reuse of weather and environmental data should be calculated according to actual use. The aim is thereby to attain greater competitive neutrality in the charge system.

National Government Employee Pensions Board

In 2002 the Government decided that SPV's roll as a public agency should be focused and much of its commercial work in a competitive environment phased out. The Board's main task nowadays is to administer central government employees' occupational pensions. In addition, under the Government's decision, SPV performs certain assignments for some 50 former central-government organisations that are now limited companies. The activities already phased out comprise administration of municipal occupational pensions, pension administration for the



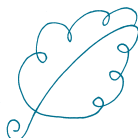
The Government decided that SPV's role as a public agency should be focused and much

of its commercial work in a competitive environment phased out.

insurance association of the Church of Sweden, and certain limited companies and foundations. Most of SPV's activities as an administrator of municipal occupational pensions, including individual choice, have been transferred to a special new company, SPP Liv Pensionstjänst AB. Following procurement in the second half of 2004, WM-data has assumed responsibility for pension administration for the Church of Sweden's insurance association. SPV's previous cooperation with Skandia Liv AB, an insurance company, concerning administrative assignments for certain companies and foundations came to an end in 2004.

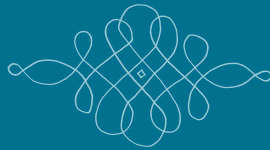
Swedish Institute of Building Documentation

During 2003, the **Government** decided to abolish the official assignment of the Swedish Institute of Building Documentation to provide information about research findings. The Library of the Royal Institute of Technology (KTH) took over the Institute's literature collection and made it available in its main library. The private company InfoData AB took charge of the Institute's computerised, processed material. Part of the material in the databases relates to the Institute's literature in the Library of KTH.



The Government has abolished the official assignment of the Swedish Institute of

Building Documentation to publicise research findings.



Governance, control and supervision

Decisions to deregulate and open previously monopolistic markets to competition call for active measures on the Government's part. Economies of scale due to natural monopolies in infrastructure or dominance owing to former exclusive status may otherwise hamper market entry.

To be in a position to act, and make active choices, consumers must be able to obtain good and independent information about the various options that the market offers. Complex information that is hard to access, along with the power imbalance that often prevails between large companies and individual consumers in recently deregulated markets, may deter people from making any choices at all. This, too, creates blockages that favour established companies.

If there are too few, too many or inappropriate regulations or other governing measures, the desired effects of deregulation in the form of lower prices and raised quality fail to materialise. If supervision of the markets is weak and inadequate, and if control functions are inefficient or inappropriate, there are no guarantees that ground rules on the markets will be upheld. This, too, gives rise to poorly functioning markets.

List of reports

- ◆ *Tillstånd för näringsverksamhet*, Licences for Business Operations (1999:12)
- ◆ *Vad kostar ett tillstånd? – förslag till enklare tillståndsgivning*, What does a Licence Cost? Proposals for Simpler Licensing (1999:25)
- ◆ *Staten som kommersiell aktör*, The State as a Commercial Operator (2000:16 and 2000:16A)
- ◆ *Effektivare tillsyn över energimarknaderna*, More Effective Supervision of the Energy Markets (2003:27)
- ◆ *Bättre konkurrens med kommunala bussbolag? – En utvärdering av försökslagen inom busslinjetrafiken*, Better Competition with Municipal Bus Companies? An Evaluation of the Pilot Statute in Bus Transport (2004:24)
- ◆ *Avregleringen av sex marknader – Mål, medel och resultat*, Six Deregulations — Ends, Means and Outcomes (2004:28 and 2004:28A)
- ◆ *Six Deregulations — Liberalisation of the markets for electricity, postal services, telecommunications, domestic air traffic, rail and taxi services in Sweden* (2005:8)



What did we investigate?

Six Deregulations

In our overview of the deregulation process, i.e. politicians' decisions to date aimed at deregulating the markets for electricity, postal services, telecoms, domestic aviation, railways and taxis, we posed several questions. What were the objectives? How was political governance conducted? Were the objectives attained? The purpose was to investigate whether, with their decisions, the politicians had succeeded in paving the way for efficient and functioning markets in line with the set objectives for the deregulations, without necessarily jeopardising the ambitions and aims of redistributive policy.

On several of the markets investigated, monitoring of competition is weak and responsibility for supervision unclearly divided among several agencies. Only now have special regulatory agencies, with designated responsibility in the sphere of competition, been created for rail services and aviation. On the telecoms market there is a special supervisory authority, the Swedish National Post and Telecom Agency (PTS), with the

explicit task of ensuring that competition on the market is functioning properly. The same agency also has supervisory functions in the postal market, but not with respect to competition issues.

Supervision of Energy Markets

In a special report, we have reviewed the focus and organisation of the Swedish Energy Agency's supervisory activity with a view to proposing more effective supervision of the energy markets. The premise is that we believe that functioning supervision paves the way for greater efficiency both in the markets and in the administration of the agency itself.



With weak, inadequate market supervision and inefficient or inappropriate control functions, there are no guarantees that ground rules in the markets will be upheld.

Other reports

Problems arising from inadequate governance, control or supervision recur in many other sectors. We have touched on these problems in such reports as *Better Competition with Municipal Bus*

Companies, about the bus-route market; *What Does a Licence Cost?*, about small and medium-sized enterprises' (SMEs) costs of applying for official licences; and *The State as a Commercial Operator*.



What did we find?

Six Deregulations

We found that the objectives defined by politicians for deregulation were unclear and sometimes contradictory. In practice, this meant that politicians handed over to others their power to decide how the market and policy area concerned were to develop. With such unclear objectives, monitoring whether the policy pursued has been successful or not is difficult.

We also concluded that the deregulation process in the six markets was incomplete. All the markets still have obstacles

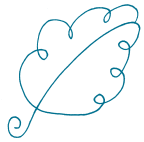
to market entry and other restrictions on competition. The electricity market is characterised by ever stronger business concentration. On the postal market, Posten AB still enjoys massive dominance and comprehensive, effective regulations that can guarantee competitively neutral access to the whole postal infrastructure are still lacking. On the railway market, only unprofitable services face competition. The formal monopoly of the Swedish State Railways (SJ) in profitable passenger services gives it a special position that risks affecting other parts of the market as well.

In the aviation market, competition for domestic routes remains slack, although a certain change was discernible towards the end of 2004. The taxi market is split in two, and the impact of deregulation is discernible mainly in metropolitan and urban traffic. Here, competition is stiff although the sector is still bedevilled by problems of economic crime and poor regulatory compliance.



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contradictory. In practice, this meant that politicians handed over to others their power to decide how the market and policy area in question were to develop.

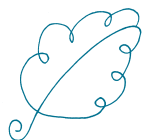


Inadequate control and supervision of previously monopolistic markets have given rise to persistent dominance problems and imbalances, both among companies and between companies and purchasers.

Of the six, the best-functioning market is telecoms. But Telia still, more than ten years after deregulation was initiated, far outstrips its competitors. Above all, this is because of the company's control of the nationwide telephony network.

Inadequate control and supervision of previously monopolistic markets have given rise to persistent dominance problems and imbalances, both among companies and between companies and purchasers. Dominance problems stemming from previous or persistent monopolies on markets where the state is the biggest owner call for clarification of objectives and clearer control of state-owned enterprises (SOEs). Where activities are subject to competition and conducted with commercial aims, the central government must ensure that the SOEs face the same conditions as the other operators. If they pursue other aims instead, this needs to be elucidated and the activities concerned hived off, with separate accounting.

In our view, the markets need further intervention from the state to function properly and become fully subject to



Dominance problems ensuing from previous or persistent monopolies on markets where the state is the biggest owner call for clarification of objectives and clearer control of state-owned enterprises.

competition. Markets that are deregulated and not yet fully functional call, for example, for special control and supervision from regulatory agencies that have ample resources and are competent and active. Where market operators lack competitively neutral access to infrastructure, rules for market entry must be reviewed. Here, both tighter regulations and increased checking of actual compliance are needed. Protection of competition against dominance and business concentration due, for example, to monopoly companies' former unique status must be stepped up.



Further intervention from the state is necessary for the markets to function properly and become fully subject to competition.

As competition emerges, a change-over to more general competitive supervision becomes possible. This supervision focuses more on retroactively intervening to combat restrictions on competition and deal with offences against competition regulations that have already taken place. Infrastructural sectors like these will always, however, require some sector-specific regulation and supervision.

Supervision of Energy Markets

Our overview of the electricity market and other energy markets shows that supervision is weak and ineffective, and lacks status. Responsibility for supervision is unclearly divided and entirely lacking in certain portions of the market. Sanctions and scope for intervening against market operators are inadequate or non-existent. In the absence of a strong supervisory function with designated responsibility for monitoring the energy markets and checking compliance with the regulations, there is a risk of poor

market functioning.

Supervision needs to become more effective, to be strengthened in content and given increased status. We have proposed the division of the Swedish Energy Agency and formation of a new, autonomous supervisory agency, the 'Energy Market Agency'. This agency should be entrusted, by law, with the function of promoting competition and a mandate to monitor all energy markets and capacity, where necessary, to intervene against operators who abuse their power. In addition, there should be enhanced cooperation among the agencies responsible for energy.

Other reports

In the report *Better Competition with Municipal Bus Companies?* we found that the current Pilot Statute (which permits municipal companies to run bus transport services outside the boundaries of the home municipality) does not provide sufficient support and control for equalisation of conditions between municipal and private bus companies. Moreover, in the market for bus services, which is now competitive, as well as for other public transport services that are contracted out, there is no independent market supervision. Likewise, effective supervision of public procurement is lacking.

In another report, *What Does a Licence Cost?*, concerning SMEs' costs of applying for start-up licences, we found wide variation in the agencies' ways of administering and checking their licensing. The licensing agencies' administration and routines encountered by companies when they applied for licences varied according to which part of the country the companies were in. This, of course, also makes

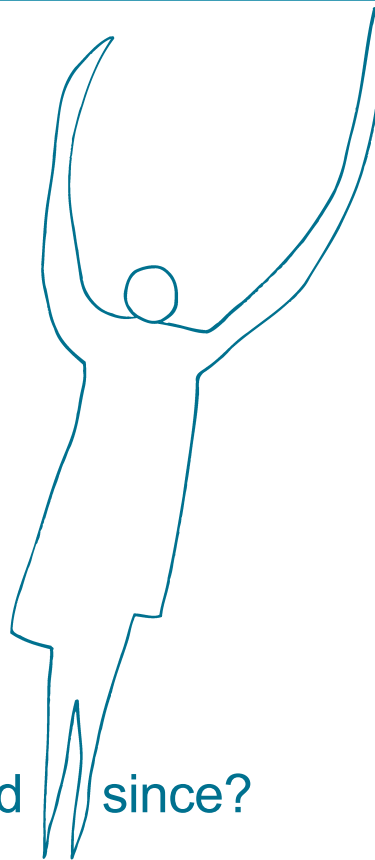


In the now competitive bus market, as well as for other public transport services that are contracted out, there is no independent market supervision. Similarly, effective supervision of public procurement is lacking.

for unequal conditions on the market.

The report *The State as a Commercial Operator* makes it clear that the commercial work carried out by such agencies as the National Land Survey of Sweden, Swedish Meteorological and Hydrological Institute (SMHI), National Heritage Board, National and Regional Forestry Boards, National Rail Administration, Swedish Road Administration, Swedish Armed Forces and National Fortifications Administration, Swedish Board of Fisheries, Swedish Police Service and many others is not explicitly defined or regulated in these agencies' official instructions. Accordingly, it is the agencies themselves that determine the scale of such activities.

Nor, until quite recently, has there been any general system of agency regulation that calls for activities in a competitive environment to have accounts separate from those of the official functions. This means that there has not been any obstacle to competition-distorting cross-subsidisation between the two sectors. The absence of a special supervisory authority for public-sector commercial activities facing competition also means that there are no guarantees that agencies' activities will not distort competition in the market.



What has happened since?

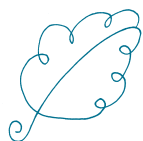
Six Deregulations

In early 2005, the **Regulatory Reform Commission** proposed that the objectives for the SOEs should be made more transparent, clear and measurable. In particular, the aims for companies serving special national interests should be developed and their monitoring improved. The companies' objectives for their monopoly operations and activities subject to competition should be clearly demarcated and defined.

The Regulatory Reform Commission has also identified the need for improved supervision of the deregulated markets and more vigilant monitoring of prices and price trends. In the electricity sector, the Commission proposed giving the Grid Authority reinforced independence and

reshaping it to form an agency in its own right that should also exercise supervision of electricity retailing. In telecoms, the Commission recommended giving the Swedish National Post and Telecom Agency (PTS) a role in promoting competition in the postal sector as well, rather than just the telecoms market as at present. The Swedish Competition Authority should, moreover, be given an annual commission to analyse, in particular, SJ AB, the National Rail Administration and Svenska Kraftnät (the utility that owns and operates the national electricity grid), since supervision of these enterprises is weak at present. The Commission also notes the need to make the regulatory agencies more autonomous and independent of temporary political fluctuations. Strengthened employment protection for agency heads concerned is proposed, as is the funding of regulatory agencies through charges to a higher degree.

The **Postal and Cash Services Commission** (2005) recommends clarifying the



The companies' objectives for their monopoly operations and activities subject to competition

should be clearly demarcated and defined.

purpose of the Postal Services Act and extending it to apply to all postal services. Competition is to be identified as a key means of attaining new postal-policy objectives of a broad range of services responding to customer demand. Besides its earlier supervisory functions, PTS is to work for efficient functioning of the postal market from a competition point of view. The Commission recommends replacing the price ceiling on postage for individual letters by measures to combat unclear pricing and price discrimination.

Supervision of the Energy Markets

Regarding supervision of the electricity market, one recommendation of the **Electricity and Gas Markets Commission** (2005) has been to tighten up requirements to which electricity retailers are subject; to draw a sharper distinction between online services and activities facing competition; and for Svenska Kraftnät to draw up a joint installation register. Instead of an independent supervisory authority, 'more formalised cooperation' is proposed between the Swedish Energy Agency, Swedish Competition Authority and Swedish Financial Supervisory Authority. For the natural-gas market, the proposals are a system of area concessions and 'development and concretisation' of the Swedish Energy Agency's supervision of the gas market.

In an interim report in spring 2005, the **District Heating Commission** proposed that issues relating to district heating prices and other terms and conditions should be resolved in negotiations between suppliers and customers. A new multilateral 'District Heating Board', with advisory functions for resolving disputes, is to be set up. This Board will form part of the Swedish Energy Agency and be financed through charges. The Commission has also proposed a limited exemption from the location principle for municipal district-heating companies; this would enable district-heating operations to be conducted

outside municipal boundaries. Operations in district heating and on the electricity market should not be run in the same company or with a common board majority or CEO. The provisions relating to district-heating operations are to be collected in a new District Heating Act and it is proposed that the Swedish Energy Agency should be responsible for supervising compliance with the Act.

Under a **Government** decision, an organisational change took place in early 2005 through the formation of the Energy Market Inspectorate within the Swedish Energy Agency. The Inspectorate is not an agency in its own right, although its director is appointed directly by the Government. Besides the earlier supervisory functions under the Electricity Act and the Natural Gas Act, the Inspectorate is to work for smoothly functioning markets by monitoring and analysing development in the markets for electricity, gas and district heating. The Inspectorate also seeks to inform consumers and SMEs on their opportunities in the deregulated markets.

In a bill early in 2005, the **Government** proposed a new Natural Gas Act in accordance with the EC Gas Market Directive and certain amendments in the Electricity Act for conformity with the revised EC Electricity Market Directive. Implications of the new Act and the amendments to the Electricity Act include increased opening-up of the markets and tighter requirements concerning legal or staff separation between online activities and trading. Moreover, provisions on time extensions for the supervisory authority's review of disputes are also being introduced. For district-heating operations, certain provisions on separate accounting are being introduced.

As for to the other proposals of the Electricity and Gas Markets Commission referred to here, the Government has still (August 2005) taken no decisions.

Other reports

Parliament has recently adopted the new Transparency Act from 1 August 2005. To date, rules on separate accounting of agencies' activities that are subject to competition have been contained only in certain special statutes, such as those pertaining to electricity, natural gas and municipal bus companies. Under the new Act, based on the EC Transparency Directive, however, major public agencies

are generally obliged to issue separate accounts for activities in a competitive environment. In addition, these accounts must be open and must show which tax revenues central and local government spend on their business enterprises.

The Swedish Competition Authority is to be responsible for supervising compliance with the Act. However, the Authority has not received any special resources for this new and probably laborious function.



The state as an enterprise owner

Legally, there is no difference between a limited company owned by central and local government, on the one hand, or one that is privately owned on the other. In practice, however, publicly owned enterprises are not free from political control and this may mean that the conditions applying to them are different from those facing the private companies on the market. Some SOEs conduct their activities, in full or in part, in statutory monopolies, while others have de facto monopolies resulting from their previous monopolistic status as public agencies.

The dual roles of the state and municipalities as regulators of markets and owners of companies on the market means that there is a risk of conflicts of interest arising between commercial and economic requirements. These conflicts may distort competition between SOEs and private companies.

Many SOEs also have conflicting objectives within their own organisations that may result in their not knowing which objectives to work for. This often culminates in the profit motive taking precedence over the need to promote various national interests and the aim of competing on the market on equal terms.

List of reports

- ◆ *Statens åtagande på post- och betaltjänstmarknaderna*, The State's Commitment in the Postal and Payment Markets (22/98-5)
- ◆ *Staten som kommersiell aktör*, The State as a Commercial Operator (2000:16 and 2000:16A)
- ◆ *Samhällsintresset och konkurrensen. Ägarpolicy för styrning och tillväxt*, National Interest and Competition. Owner Policy for Governance and Growth (2002:24)
- ◆ *Bättre konkurrens med kommunala bussbolag? – En utvärdering av försökslagen inom busslinjetrafiken*, Better Competition with Municipal Bus Companies? An Evaluation of the Pilot Statute in Bus Transport (2004:24)
- ◆ *Avregleringen av sex marknader – Mål, medel och resultat*, Six Deregulations — Ends, Means and Outcomes (2004:28 and 2004:28A)
- ◆ *Six Deregulations — Liberalisation of the markets for electricity, postal services, telecommunications, domestic air traffic, rail and taxi services in Sweden* (2005:8)



What did we investigate?

National Interest and Competition

In our study of state owner policy, we analysed the need for a competitively neutral owner policy. The state-owned enterprises (SOEs) have special financing terms and yield requirements, cheaper risk capital and access to strategic infrastructure that gives them competitive advantages. Moreover, alongside their activities that face competition, the SOEs often engage in actual or legal monopoly activities that give them a special market position.

This special market status, coupled with certain companies' obligation to fulfil specific public-service objectives, may bring about both reduced pressure to be efficient and a risk of contradictory aims and control problems. The state becomes a weak owner that lacks control of its enterprises and of whether their activities tally with objectives. This also results in uneven competitive conditions, to the SOEs' advantage, that together bring about reduced competitive pressure on the market.

The State's Commitment in the Postal and Payment Markets

The problem is that deregulation of the postal market has not entailed any appreciable increase in competition or decrease in costs of postal conveyance and delivery of mail. One of the biggest barriers to market entry for nationwide postal services is a requirement of overnight delivery of some mail. A relatively high level of postal services on the part of Posten AB may also mean that it will, at some future date, request special remuneration from the state.

Given this background, we analysed the service level of these postal services, above all, in order to define the central



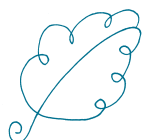
The state becomes a weak owner that lacks control of its enterprises and of whether their activities tally with objectives.

government's responsibility in detail. We discussed how the owner could regulate the market in order to exert cost pressure on the postal services. We also discussed postal infrastructure in the form of letterboxes, procedures for changing address, forwarding of mail, mail storage, the postal-code system and door codes. This infrastructure is not available on equal terms, and is therefore an obstacle to competition and entry into all submarkets for mail conveyance and delivery.

When it comes to the state's responsibility for cash and payment services, we discussed the central government's obligations to the public, in the light of the existence of many competing commercial services such as cash dispensers, postal and bank giro, and Internet payment systems. Given, however, that not all citizens can yet make use of these options, we argued for a possible transitional system.

Better Competition with Municipal Bus Companies?

We explored the ways in which competition has been affected by a pilot project in which municipal bus companies are permitted to conduct business operations outside their respective municipal boundaries. We also analysed whether private and municipal companies compete on local terms, and investigated whether the municipal companies have complied with the requirements of the pilot project concerning separate accounting of their business activities.



As the owner of Telia, Vattenfall, SJ, Green Cargo and other SOEs, the state itself is the dominant operator on all six deregulated markets we examined, except for taxi services.



This duality imposes a special requirement that governance of SOEs is such as to guarantee that they do not operate on terms differing from those facing other companies on the market.

Six Deregulations

As the owner of Telia, Vattenfall, SJ, Green Cargo and other SOEs, the state itself is the dominant operator on all six deregulated markets we examined, except for taxi services.

The state thus has a dual role as owner, on the one hand, and regulator and social developer on the other. This duality imposes a special requirement that governance of SOEs is such as to guarantee that they do not operate on terms differing from those facing other companies on the market.

In evaluating the formal process of decision-making prior to the deregulations, we saw that the state's motives for owning enterprises are not entirely clear. Undefined motives result in unclear and contradictory objectives from the owner and contribute.

As an owner, the state should clarify the functions of the SOEs in the various markets. Should they operate on the same terms as all other companies, or do they have special public objectives that must be fulfilled? What does the owner wish to use a state monopoly position for? Are SOEs necessary in the specific markets in question? When the motives for ownership have been precisely defined, appropriate control instruments can be chosen.

Other reports

In our report *The State as a Commercial Operator*, we analysed the operations conducted by the SOEs in competition with private companies. SOEs do not operate

on the same terms as private enterprise: rather, they are more or less influenced by political control. Many SOEs also enjoy major advantages owing to a statutory monopoly position, a previous monopoly or access to strategic infrastructure. This

applies, for example, to Apoteket AB, Vattenfall AB, SJ AB and TeliaSonera AB. These competitive advantages result in competitive distortions that make it more difficult for SMEs, in particular, to compete on markets with SOEs.



What did we find?

National Interest and Competition

Public-sector companies' activities exposed to market forces give rise to competition problems that curb the expansion potential of SMEs, in particular. This is due both to the SOEs' financing and financial yield requirements and to their sales policy and accounting. But it is also due to the Government's unclear governance of these companies.

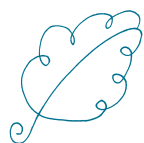
In our view, a competitively neutral owner policy is necessary to enable SOEs to fulfil special national interests. For the sake of clarity, this policy should be summarised and made public in a special



interests.

A competitively neutral owner policy is necessary to enable SOEs to fulfil special national

document. A commission of inquiry should study how to make the Government's SOE requirements competitively neutral in relation to other companies on the market. A closer look should also be taken at how the state yield requirements affect competition and cost-effectiveness. A commission of this kind should also study how the EU Transparency Directive and separate accounting of various activities' income and costs should be practised.



Public-sector companies' activities exposed to market forces give rise to competition problems that curb the expansion potential of SMEs, in particular.

The State's Commitment in the Postal and Payment Markets

In our view, state responsibility for nationwide postal conveyance and the delivery of single-item consignments, mainly letters, can be confined to a basic service level to

minimise unnecessary services. In this way, costs can be reduced and a step taken to preclude any possible requirement of future remuneration from Posten AB.

To induce more companies to enter the market and to rationalise nationwide postal services, the state needs to intervene in the market by, for example, procuring postal services in competition. Access to Posten AB's distribution network on competitively neutral terms may be a key component for the winning bidder.

To improve prospects of equal conditions on all submarkets, services like PO boxes, change of address, mail forwarding and other postal infrastructure, for example, need to be separated from Posten AB. An autonomous, independent body could provide access to this infrastructure and be funded through charges levied by the postal-service operators.

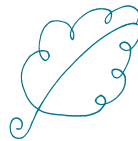
In our view, the state need not be responsible where needs for cash and payment services can be met by other operators. During a transition period, the state should procure cash and payment services for groups, and in areas, where there is no private interest in offering the services on the market. When demand for the state's services no longer exists, owing to technological advances and other developments, this state responsibility can cease entirely.



There should be no state responsibility where needs for cash and payment services can be met by other operators.

Better Competition with Municipal Bus Companies?

The actions of municipal purchasers evidently have more of a bearing in terms of generating competition on the market than if municipalities themselves run bus



Municipal purchasers' actions evidently matter more to competition than whether the municipalities run their own bus companies.

companies. Motives for municipal business operations outside municipal boundaries therefore do not exist and, accordingly, we propose repealing the Pilot Statute.

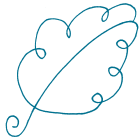
Municipal business activity of this kind may also exert substantial adverse effects on local residents in the form of raised taxes or raised fares for public transport, with no any increase in benefit for the municipality concerned. Poor separate accounting of business activities outside the municipality and non-exposure of public transport to competition in the municipality also entail a risk of municipal and private companies not competing on equal terms.



State-owned enterprises on competitive markets should not be given special treatment. Instead, they should be governed by regulations and regulatory agencies in the same way as other companies.

Six Deregulations

Systematic analysis of the motives for ownership in various SOEs, and of whether there are ways of attaining these ends other than by state ownership, is required. If the state wants to bring about the emergence of functioning competitive markets, it should not simultaneously support the establishment of ever larger dominant operators.

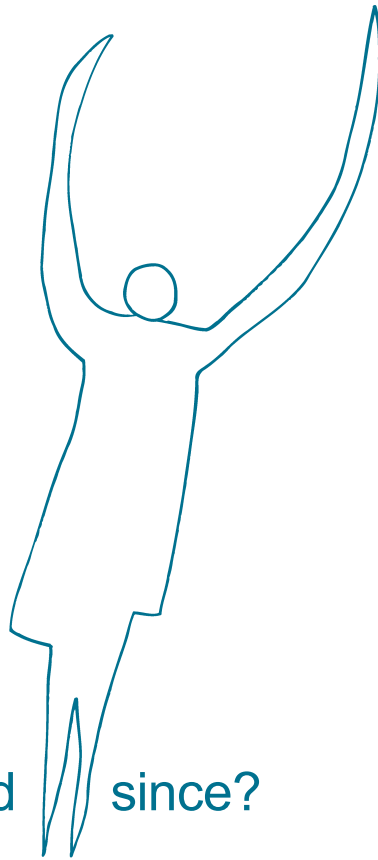


Systematic analysis of the motives for ownership in various SOEs, and of whether there are ways of attaining these ends other than by state ownership, is required.

State-owned enterprises on competitive markets should not be given special treatment. Instead, they should be governed by regulations and regulatory agencies in the same way as other companies. This presupposes that the SOEs have no special

market power, for example by virtue of their previous monopolies. With market power of this kind, in the absence of regulations and requirements, there is otherwise a risk of monopoly profits benefiting neither consumers nor society as a whole.

Precisely defined and measurable targets, ranked in terms of priority, for various parts of the SOEs' operations would make it easier for them to steer their activities towards the established objectives. With this kind of performance management, there is better scope both for efficient companies and for a functioning market.



What has happened since?

National Interest and Competition

The **Regulatory Reform Commission** (2005) emphasises the importance of strengthened and more effective owner control to remedy the problems of SOE governance. Objectives for special national interests need to be developed. According to the Commission, considerations of social and regional policy can be taken into account in other ways than through state ownership, for example through procurement of services.

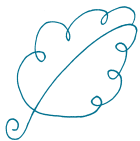
If a SOE has social objectives to fulfil, these naturally weigh as heavily as, or more heavily than, its financial aims. The Commission shares our opinion that a

coherent, competitively neutral owner policy is needed. In this way the Government issues a clear signal, both to its own enterprises and to the rest of the market, that it takes competition issues seriously.

The Commission's proposals have now been submitted to the Government, whose decision is awaited.

The State's Commitment in the Postal and Payment Markets

The **Postal and Cash Services Commission** (2005) would like the Postal Services Act and responsibility for supervision of the postal sector to comprise all postal services. The nationwide services should be on the same scale as it is today. The requirement of overnight delivery should be retained, but that of rapid delivery times reduced in the future. The Commission recommends procurement of the nationwide postal services in the event that they become too expensive and remuneration is requested by Posten AB. At present, no procurement is necessary.



With a competitively neutral overall policy the Government issues a clear signal, both to its own enterprises and to the rest of the market, that it takes competition issues seriously.

The Commission does not regard regulation of price ceilings for postage as an effective guarantee against cross-subsidisation. The Swedish National Post and Telecom Agency (PTS) should, instead, be given rights to promote competition on the postal market. The Agency should be able to impose certain requirements on the provider of the nationwide services. This postal operator, currently Posten AB, should have clear and non-discriminatory pricing to combat cross-subsidisation between activities that are, respectively, protected from and subject to competition.

The Commission has (in 2004) expressed its view that, in cases where the market offers basic payment services, the state itself need not perform the service. The state's responsibility consists in PTS procuring basic payment services in the urban and rural areas where it is not commercially viable to offer such services.

This Commission's report, too, has been submitted to the Government and a decision is awaited.

Better Competition with Municipal Bus Companies?

During 2005, the **Government** decided to make the Pilot Statute permanent. Public transport is to be provided on a business-like basis and may comprise the use of various vehicles, such as buses, underground and commuter trains, and trams. The Government also defined the scope of the law and denied municipal bus companies the right to run services



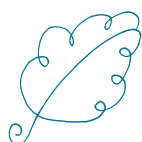
The Government considers that there is a risk of public enterprises eliminating private ones through competition with the support of public funds.

involving commercial transport, long-distance express coaches, transport across county boundaries and what are termed 'ancillary services'. Although the law is being made permanent, the Government considers that there is a risk of public enterprises eliminating private ones through competition with the support of public funds. In the new law, accounting requirements applying to public enterprises are therefore extended and tightened up.

Six Deregulations

The **Regulatory Reform Commission** (2005) would like to see more efficient owner control, attained through a more cohesive owner function linked to the Swedish Government Offices. This function is to be distinct from specialist responsibility for policy in the various markets. Another option is the formation of one or more holding companies.

The dual objectives of SOEs — attaining both financial efficiency and social goals — may, according to the Commission, result in competitive distortion and incorrect distribution of society's assets. The remedy proposed is to divide and define more clearly objectives for monopoly operations and those that are subject to competition. The Government is to take active steps to ensure that the return from activities in monopoly sectors reflect social objectives. Funds from such activities must not be used to subsidise the SOEs' activities that face competition. In an annual written communication, Parliament is also to be informed about the competitive situation and the regulations



The Government also defined the scope of the law and refused to allow the municipal bus companies to run services involving commercial transport, long-distance express coaches, transport across county boundaries and 'ancillary services'.

governing the deregulated markets.

The Regulatory Reform Commission also proposed a more precise definition of the special requirements and rights applying to companies like SJ AB and Posten AB. For SJ, the sole right to profitable passenger transport should be linked to certain conditions concerning the scale and content of such services. In the postal sector, the scale and costs of Posten AB's obligation to provide nationwide services are being examined more closely.

The Government has not yet decided whether it wishes to proceed with implementing the Commission's proposals.



To safeguard the credibility of the deregulated market, the state should refrain from controlling Vattenfall in a manner that raises doubts about the businesslike nature of the company.

The **Electricity and Gas Markets Commission** (2004) stated that, in its role as owner of Vattenfall AB, the central government should review the joint ventures in which this SOE takes part. To safeguard the credibility of the deregulated market, the state should refrain from controlling Vattenfall in a manner that raises doubts about the businesslike nature of the company.

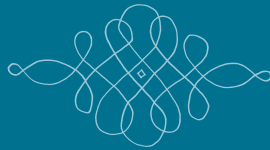
At the **general meeting of shareholders** in Vattenfall AB in April 2005, the state resolved to adopt clarified owner directives for the enterprise. A supplement was added to the articles of association to define exactly what Vattenfall's role should be in leading the shift in the energy system towards renewable energy sources. The company is also to lead the sector in safeguarding electricity supplies.

The **Swedish Railways Commission** (2003) proposed separating TGOJ Trafik AB from the Green Cargo group for the

purpose of reducing Green Cargo's dominance and creating a fully viable alternative to Green Cargo on the Swedish cargo market. The Commission also wishes to expose profitable passenger transport to competition by opening up the market to rail operators other than SJ AB as well. To boost the supply of vehicles on competitively neutral terms, what remains of SJ as a public business enterprise (*Affärsverket SJ*) is to take over superfluous vehicles both from SJ AB and from Green Cargo, and lease or sell these vehicles to other rail companies. The Commission has also proposed that AB Jernhusen, which administers stations and terminals, should have no commercial function but, rather, be classified as a company of special national interest. The company is to offer access to properties on cost-related and competitively neutral terms. The Commission's proposals have now been submitted to the Government and further action on the matter is awaited.

At year-end 2002, SJ AB found itself in a financial crisis with more than half of its own equity spent. In 2003 **Parliament** resolved, as proposed by the Government, to give SJ AB a capital contribution of more than SEK 1.8 billion and the option of borrowing SEK 2bn in the National Debt Office. The company was also to be relieved of transport operations on two unprofitable routes. The National Public Transport Agency would assume the financial risk of SJ AB's surplus vehicles in the transport services procured.

During 2004, owing to Green Cargo's financial straits, Parliament granted permission for the Government to change the basis of the company. This made a wide range of remedies possible, from a state capital contribution and various forms of collaboration with, or purchase of, other companies to a sell-out of Green Cargo. In March 2005 the Government contributed SEK 600 million to Green Cargo, enabling it to invest in locomotives and rolling stock.



Public agencies as purchasers

If public agencies are incapable of drawing up good orders and exploiting market competition by giving every bidder equally good prospects in their competitive tenders, the market does not function. A poorly functioning tendering market does not afford the best possible goods and services at the lowest possible price.

One good purchasing strategy for agencies is to clarify which goods and services are sought after from society's point of view, to enable the goods and services to be purchased for citizens to be identified and given priority. In order for agencies to be capable of using market competition in both the short and long term, forms of procurement and contracts must give take the market opportunities of enterprises of all sizes into account. Contractual obligations must also be followed up.

In certain major investment projects, the purchaser and producer need to share the risks in order not to delay or rule out investments of value to society.

List of reports

- ◆ *Bolagisering av uppdragsverksamheter – Arkeologi, Lantmäteri, Vägverket Produktion, Incorporation of Commercial Activities — Archaeology, Land Surveying, Roadbuilding (364/97-5)*
- ◆ *Privatfinansiering genom partnerskap, Private Funding through Partnership (1998:12)*
- ◆ *Mittutvärderingar av strukturfonderna – en övergripande utvärdering, Mid-Term Evaluations of the Structural Funds — an Overall Evaluation (1999:53 and 1999:53A)*
- ◆ *Staten som kommersiell aktör, The State as a Commercial Operator (2000:16 and 2000:16A)*
- ◆ *Konsulter – Hur, varför och till vad?, Consultants — How, Why and What For? (2001:13)*
- ◆ *Synpunkter beträffande utformningen av en långsiktig lösning för Hundskolan i Sollefteå AB, Views on the Nature of a Long-Term Solution for the Dog Training Centre in Sollefteå (2002/189-5)*
- ◆ *Prognos för SMHI – myndighet, bolag eller både och?, Forecast for the Swedish Meteorological and Hydrological Institute: Public Agency, Company or Both? (2002:3)*
- ◆ *Öppen programvara, Open Source Software (2003:8 and 2004:21)*
- ◆ *Uppdrag och upphandling i Lantmäteriet – Underlag för Lantmäteriutredningen, Commercial Work and Purchasing in the National Land Survey of Sweden — Documentation for the National Land Survey Commission (2003:12)*
- ◆ *Rikstrafiken – Liten myndighet med stort uppdrag, The National Public Transport Agency — a Small Organisation with a Big Job (2003:25)*
- ◆ *Bättre konkurrens med kommunala bussbolag? – En utvärdering av försökslagen inom busslinjetrafiken, Better Competition with Municipal Bus Companies? An Evaluation of the Pilot Statute in Bus Transport (2004:24)*
- ◆ *Avregleringen av sex marknader – Mål, medel och resultat, Six Deregulations — Ends, Means and Outcomes (2004:28 and 2004:28A)*
- ◆ *Six Deregulations — Liberalisation of the markets for electricity, postal services, telecommunications, domestic air traffic, rail and taxi services in Sweden (2005:8)*



What did we investigate?

National Public Transport Agency

We evaluated the Government's way of controlling the National Public Transport Agency; the Agency's internal governance; and how it conducts its activities. The purpose was to study possible ways of attaining better quality and lower costs by enhancing the efficiency of the Agency's purchase of long-distance passenger transport, which is commercially unprofitable. We also studied how the Agency can better coordinate and develop long-distance transport. Improved coordination with both commercial and public-sector operators helps, in our view, to bring about better long-distance, as well as

regional and local transport. All in all, this may mean that a smaller portion of the transport services that are justified for community reasons needs to be procured and financed by the taxpayers.

Open Source Software

In the report on open-source (OS) software, our starting point was to discuss how to combat the dependence of public administration on a single software supplier. We believe that the availability of OS software on the Internet opens up the supplier market and affords increased competition between more companies. This favours the purchasers, who gain access to more suppliers that can push down prices and develop the software.

Consultants — How, Why and What For?

In five case studies, we investigated how, why and for what purposes public agencies engage consultants in their work. The purpose of the study was to derive lessons from and examples of best



Improved coordination with both commercial and public-sector operators helps, in our view, to bring about better long-distance, as well as regional and local transport.

practice that can help others to learn and develop strategies and routines for effective use of consultants.

Owing to unclear procurement, there is a risk of competition on the consultant market waning while, at the same time, the agencies incur heavy costs and make poor use of consultants.

Private Funding through Partnership

We are investigating the scope for rationalising use of state tax revenues in the building of roads and railways by using the public-private partnership (PPP) market solution, also known as private finance initiative (PFI). In PPP projects, private companies provide public services in which they have increased incentives to keep investments and maintenance at the right level throughout the life of the project. This reduces the total costs of the services. The private sector's enhanced incentives and commercial skills are used not only in roadbuilding and the laying of track, but also in project planning and financing and in the operation of transport services.

Through this cooperation and the division of risk that is effected with the private sector, the state can attain cost savings and release public funds. At the same time, we point out that the PPP model boosts initial planning and procurement costs for the state and private bidders. Accordingly, the PPP model is best suited to large projects. The size of the projects, in turn, means that only large companies or consortia of companies can submit



Private companies provide public services in which they have increased incentives to keep investments and maintenance at the right level throughout the life of the project. This reduces the total costs of the services.

bids. This means that the number of possible bidders is relatively small, with reduced cost pressure on the bidders as a result. The purchaser's task is therefore to be active even before the procurement, and try to attract as many bidders as possible.

Mid-Term Evaluations of the Structural Funds

Our evaluation of the procurement of mid-term evaluations of the structural-fund programmes was aimed at elucidating whether it had been implemented in a professional, open and objective way. We are convinced that purchaser skills, combined with making use of the existing competitive situation, cut costs and improve evaluation quality. These evaluations, in turn, can reduce costs and make future structural-fund programmes more efficacious. Through competent procurement behaviour, the purchaser can facilitate the growth of companies on the consulting market.



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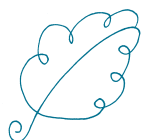
The Dog Training Centre in Sollefteå

On the Government's behalf, we have expressed our views on the proposals of a commission of inquiry on long-term arrangements for the Dog Training Centre in Sollefteå. We have expressed the view that, before a final decision is taken on these proposals, it should be clarified whether the state is to be involved in the training of specialist and working dogs at all, or whether this may be seen as an entirely private economic activity. Thereafter, a decision is to be made on how state involvement, if any, should be

organised so as to be cost-effective and boost the supply of working dogs.

Better Competition with Municipal Bus Companies?

In studying the business operations of municipal bus companies outside the boundaries of their home municipalities, we evaluated the factors affecting competition in the local and regional public-transport markets. Municipal purchasers' conduct in procuring transport services is crucial to the nature of the local and regional competition situation. We have seen that certain municipal purchasers' inventive variations on the procurement process have generated better competition regionally and, by the same token, cut costs and improved quality in transport services.



Certain municipal purchasers' inventive variations on the procurement process have generated better competition regionally and, by the same token, cut costs and improved quality in transport services.

Other reports

The problem of public agencies as purchasers may, moreover, be said to crop up on most markets, even deregulated ones like those for electricity, postal services, telecoms, domestic aviation, railways and taxi services. In some cases, policy objectives are fulfilled because the former state monopolist still provides services of value to society, according to more or less explicit long-term instructions from the state, on the deregulated market. In other cases, the regulatory agency has been charged with procuring certain services within defined geographical areas or for particular categories of citizens.

When it comes to national land-survey services, weather forecasts, road and track production, and archaeology, the respective public agencies (the National Land Survey, Swedish Road Administration, National Rail Administration and National Heritage Board) act as both purchasers and providers. This dual role entails not only problems from the purchaser's point of view, but also role conflicts that may arise when a single organisation is supposed to arrange competitively neutral sourcing and competitive production.



What did we find?

National Public Transport Agency

We found that both the Government's and the Agency's own governance have been unsatisfactory, and that they should take various steps to develop public transport.

In our view, the Government should define the exact coordinating role of the Public Transport Agency in long-distance passenger transport; clearly demarcate its role in relation to other operators; and identify the tools it can use in its coordinating role. The Agency should be able

to undertake an active role in infrastructure planning, to improve its ability to develop public transport and reduce the state's need to procure transport services. To avoid commercial transport services being ousted by those procured by the state the Government needs, in our opinion, to define exactly the situations in which, from the state's point of view, intervention is justified. The Board of the National Public Transport Agency must also be given full responsibility, to enable it to select the right priorities and take the right decisions on transport services the state needs to procure.

The National Public Transport Agency's own governance is unclear, which reduces its efficiency. The Agency needs to draw up a strategy to clarify the content, operative aims, action plans and long-term priorities of its activities. Furthermore, the Agency should work to shape a planning perspective that includes its own analyses and economic assessments, on the one hand, and a market perspective in which cooperation with both public and



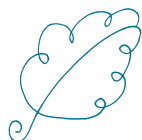
The Government should define the exact coordinating role of the National Public Transport Agency in long-distance passenger transport; clearly demarcate its role in relation to other operators; and identify the tools it can use in its coordinating role.

private operators is a self-evident feature.

The Agency needs to assign priorities more systematically among transport routes and modes of transport in its transport procurement. This requires close cooperation with commercial operators and county transport principals, to obtain ideas about transport arrangements and clarify the implications of planned measures. Moreover, the National Public Transport Agency should investigate the central government's responsibility for shaping conditions and joint functions for long-distance public transport, such as a joint telephone number for all transport information.

Open Source Software

Our proposal is that agencies and municipal administrations should draw up detailed action plans to gain practical experience of OS software. The purpose is to start using this software on a larger scale in public administration, thereby helping to bring about market expansion. This may benefit the central government as a purchaser.



The aim is to use OS software more in public administration, to help the market expand.

Consultants — How, Why and What For?

We point out that the use of consultants is a strategic issue that should be settled at the highest management level in the agencies. A joint strategy should be adopted regarding the occasions when, and purposes for which, consultants may be engaged, and also routines and chains of command with respect to how administrators and officials should deal with the matter in individual cases. Previous experience of engaging consultants should



Previous experience of engaging consultants should be drawn on to generate a 'learning loop' in day-to-day activities.

be drawn on to generate a 'learning loop' in day-to-day activities.

Private Funding through Partnership

To function properly in Sweden, the PPP model needs adjusting to Swedish conditions. A policy taskforce comprising ministry representatives and experts should be made responsible for devising policy and guidelines for PPP projects; testing and approving suitable projects; and disseminating information. Moreover, a project taskforce should be formed in every public agency that acts as a purchaser of PPP projects. This group should propose suitable projects on the basis of financial profitability calculations. The projects would then be procured in the form of function contracts to be implemented by private project companies. The state project taskforce would be responsible for monitoring and checking compliance with risk division and the quality and service level pledged.

For the PPP investment to be included in the government budget, and for Parliament to be given full access to information about it, a special grant in the budget should be set up, for disclosure of the central government's revenues and costs for the project throughout its duration.

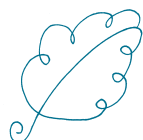


To disclose revenues and costs of PPP investments in the government budget and give Parliament full information access, special project grants should be set up.

The state's annual payment to the private sector for roads and railways should take place in the form of 'shadow' tolls (pegged to the numbers of users), combined with other performance-based remuneration. User charges are less suitable as a means of paying the private sector, especially when competing transport routes exist.

Mid-Term Evaluations of the Structural Funds

Our finding is that nationally imposed requirements in procurement, and inadequate dialogue with the European Commission concerning the requisite evaluations, have resulted in poor procurements. The purchasers' selection has been too narrow and they have failed to make use of competition, impeding market entry for new bidders. In our view, one way of broadening the market is to purchase more restricted functions: this would mean that more companies could be eligible, in terms of capacity and knowledge, to perform the assignments concerned. Purchaser skills should also include knowledge of evaluation and procurement alike.



The purchasers' selection has been too narrow and they have failed to make use of competition, impeding market entry for new bidders.

The Dog Training Centre in Sollefteå

We are discussing the option of creating a market for working dogs. Obstacles to a market for breeding and training of working dogs should be investigated. The state's responsibility in the whole sector of working-dog activities should be clarified before the Government decides on the Commission's proposal of state involvement as a financier and



State responsibility throughout the sector of working-dog activities needs clarifying.

producer on the working-dog market. In this context it should also be assessed whether the Swedish Association of the Visually Impaired (SRF, the main organisation of the blind and partially sighted in Sweden), a private operator that has taken over the state's role as purchaser and, accordingly, receives state funding, is obliged to comply with the Public Procurement Act.

Better Competition with Municipal Bus Companies?

The requirement in the Pilot Statute of separate accounting for business activities in other municipalities is not always complied with. Moreover, in contravention with the rules on public procurement, some municipalities have failed to expose their own bus companies in the home municipality to competition. When the company does not compete to provide bus services in other municipalities, there are no guarantees against cross-subsidisation between the services that are protected and those that face competition. This was one motive for our proposal to repeal the Pilot Statute. Another was that procurement arrangements and contract terms have more of a bearing on the competitive situation than the existence of municipal bus companies. Municipal influence on transport is also greater through the



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municipality's purchaser role than through its role as a provider.

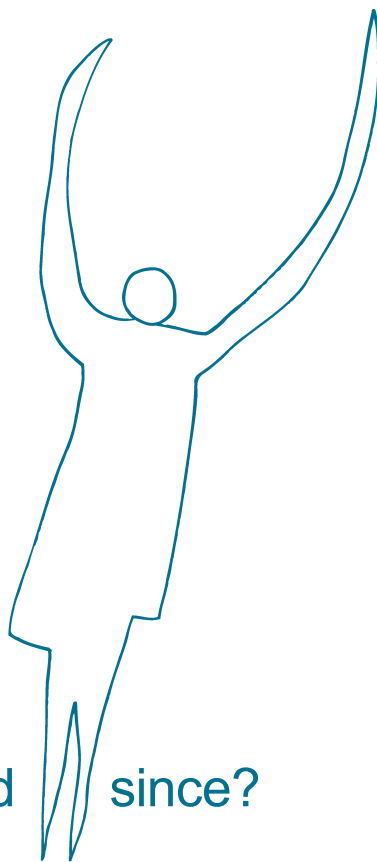
We have issued an inclusive list of measures for bringing about favourable development of procurement and contracts and stimulating competition in bidding for contracts. These will enable costs to be kept down in public transport in the future as well.

Secondly, we have proposed clarifying the scope of the law. Requirements concerning separate accounting should be tightened up and supplemented by sanctions against those who fail to comply with the rules. Special checks to verify compliance with the law, as well as more

effective supervision of adherence to the procurement provisions on the market for public transport, should also be introduced.

Other reports

The Swedish Road Administration and the National Rail Administration, for example, should be split up to isolate their purchaser role and permit incorporation of their production role. In other cases, agencies should develop their purchaser role more, instead of giving priority to production activities that are far removed from their core activities. This applies, for example, to SMHI and the Swedish Maritime Administration.



What has happened since?

The National Public Transport Agency

In its 2003 report *Passenger-Focused Public Transport* (SOU 2003:67), the **Public Transport Committee** recommended defining the sector-wide, coordinating function of the National Public Transport Agency more clearly in relation to the local transport authorities' responsibilities. Responsibility in relation to the municipal transport principals can be defined more closely by making National Public Transport Agency's funding responsibility for regional public transport proportionate to the share of long-distance transport in aggregate transport services procured.

In its official appropriation documents (for 2004 and 2005), the **Government** has clarified the National Public Transport Agency's activities. The intention is to bring about an open-ended assessment of whether transport services are justified from society's viewpoint and to determine whether they should be procured. Moreover, in assigning priorities among its

procurements, municipalities should not overemphasise accessibility and regional development, but also consider the cost-effectiveness of individual transport routes.

The Government has decided that the National Public Transport Agency should define targets and develop a strategy for its activities. At the same time, the Government has appointed a new Director General and partially replaced the members of the Board, to secure better governance of activities. The Government has also



Open-ended assessment of whether transport services are socially justified is the aim.

Municipal sourcing criteria should include the cost-effectiveness of specific routes as well as accessibility and regional development.

expressed the view that the Agency should, in its procurement, request support and help from the other transport authorities and that its support should be regulated by agreements.

The Government has instructed the National Public Transport Agency to investigate its own role and terms of reference, and demarcate them in relation to the other central and local government operators. In its report, the Agency proposes measures that are in line with our proposal to develop the Agency's activities. For example, it proposes that central government agencies concerned, including the Agency itself, should identify IT support areas where a state responsibility is justified. Moreover, better coordination is proposed in matters such as infrastructure and government grants, through consultation between the Agency and other central government agencies.

Open Source Software

The **Swedish Agency for Public Management** has adopted a policy (in 2004) regarding the best way to deal with OS software and software standards in our framework procurements. The aim is that use of the procurement policy should contribute to increased competition and, accordingly, better prices and higher quality for services and products. In the longer term, we would also like to see greater interchangeability among different products and systems.

In a follow-up report (2004) on OS software, we have summarised the experience of other public-sector purchasers' experience of software based on open-source code. We have also procured framework agreements for OS software and disseminated information about the scope for cheaper, better products when this software is used.



The aim is that use of the procurement policy should contribute to increased competition and, accordingly, better prices and higher quality for services and products.

Consultants — How, Why and What For?

The report on how consultants should be used has mainly served as material for training courses in the agencies, such as the Swedish Energy Agency.

Private Funding through Partnership

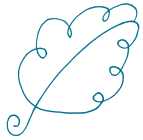
In a ministry memorandum (2000), a working group at the Ministry of Industry, Employment and Communications has continued to develop a model for road and rail design in partnership with the private sector. Up to the end of June 2005, the Government had still not decided whether to implement any PPP project, over and above the Arlanda Express (the rail link between Arlanda International Airport and Stockholm Central station), which had been completed previously.

Mid-term Evaluations of the Structural Funds

On behalf of the Government Offices, we have explained to the individual purchasers how they should proceed in a more professional manner in the next procurement of these evaluations.

The Dog Training Centre in Sollefteå

In a Government Bill (2004), the **Government** states that the present-day shortage of guide dogs may be assumed to be due to the fact that the state purchaser in this context, the Swedish Association of the Visually Impaired (SRF), has bought



The reason why guide dogs are in short supply is that SRF has sourced them solely from its own company. Other operators have lacked investment incentives and there has been no price competition.

guide dogs from its own company only. Other market operators have lacked incentives to invest in rearing dogs, and there has been no price competition. In the Government's view, the Swedish Handicap Institute (HI) can help SRF in public procurement of guide dogs. SRF would then continue to enter into contracts with suppliers, own the dogs and deal with guide-dog cases.

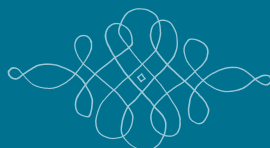
The Government has previously (2003) decided that the Swedish Armed Forces should engage in breeding specialist and working dogs in Sollefteå. This breeding operation should correspond to the Armed Forces' own needs; accordingly, there should be no sale to external customers. In June 2004, the Government followed our recommendation and appointed a commission of inquiry on the state's responsibility for rearing working dogs. The commission proposed, in September 2005, that the state should be responsible for ensuring a sufficient supply of high-quality working dogs. Through state control and cooperation agreements, private operators should then be able to take care of the rearing.

Better Competition with Municipal Bus Companies?

Under draft legislation, making the Pilot Statute permanent, that the **Government** has (in 2005) referred for consideration to the Council on Legislation, accounting requirements are to be tightened up and a commission of inquiry appointed to study how to bring about better compliance with the requirements applying to municipal bus companies' business operations outside municipal boundaries. The Government has issued a reminder that purchases between municipalities and county councils, on the one hand, and their enterprises on the other are covered by the Public Procurement Act. Accordingly, the municipalities' home markets are subject to the same procurement requirement as all other markets.



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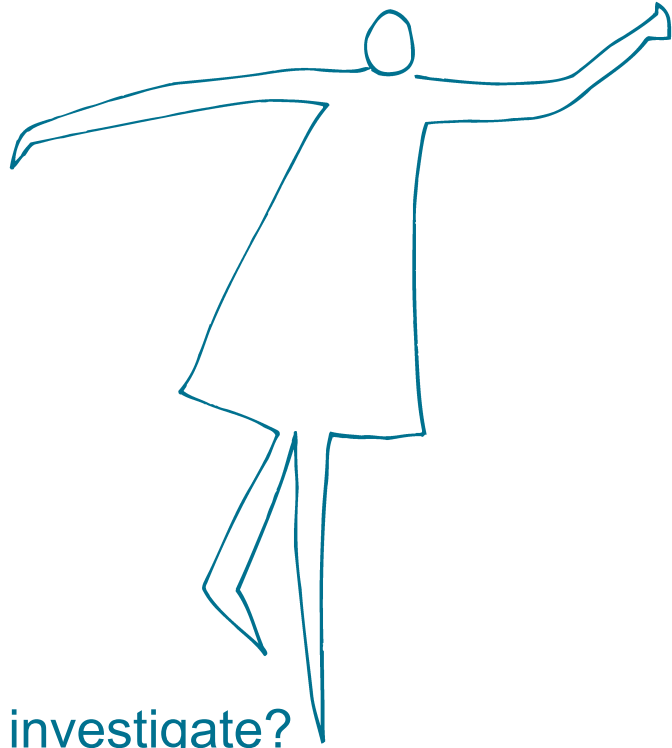
Access to public-sector information and infrastructure

A rational information structure appropriate for its purpose, to enable public-sector information to be provided and reused, is key to development and growth of many markets. Access to such information is nevertheless restricted, since it is regarded as a commercial product or service that is sold on certain terms and for a charge that generates revenues for the agency producing it. In this way, data-producing agencies are the sole suppliers of unique, basic information to their competitors, i.e. companies that live by processing the information.

Correspondingly, access to other strategic infrastructure is necessary for the development of many other markets. This applies, for example, in transport and communications sectors such as rail and aviation, or electricity and telecoms. There, market entry presupposes that all operators can jointly make use of railways and airports, or connect their services to a shared telecoms network or electricity grid. However, general access to this type of network or grid may be prevented by the fact that the previous monopolist in the activity is still the sole owner of the network, or otherwise enjoys precedence in its use.

List of reports

- ◆ *Bolagisering av uppdragsverksamheter – Arkeologi, Lantmäteri, Vägverket*
Produktion, Incorporation of Commercial Activities — Archaeology, Land Surveying, Roadbuilding (364/97-5)
- ◆ *Statens åtagande på post- och betaltjänstmarknaden, The State's Commitment in the Postal and Payment Markets (22/98-5)*
- ◆ *Statlig konkurrensutsatt verksamhet, Central Government Activities Facing Competition (1999/0276-5)*
- ◆ *Staten som kommersiell aktör, The State as a Commercial Operator (2000:16 and 2000:16A)*
- ◆ *Prognos för SMHI – myndighet, bolag eller både och? Forecast for the Swedish Meteorological and Hydrological Institute: Public Agency, Company or Both? (2002:3)*
- ◆ *Ett statligt åtagande inom stiftelsen Byggdok? State Ownership of the Swedish Institute of Building Documentation? (2003:3)*
- ◆ *Uppdrag och upphandling i Lantmäteriet – Underlag för Lantmäteriutredningen*
Commercial Work and Purchasing in the National Land Survey of Sweden — Documentation for the National Land Survey Commission (2003:12)
- ◆ *Avregleringen av sex marknader – Mål, medel och resultat, Six Deregulations — Ends, Means and Outcomes (2004:28 and 2004:28A)*
- ◆ *Six Deregulations — Liberalisation of the markets for electricity, postal services, telecommunications, domestic air traffic, rail and taxi services in Sweden (2005:8)*
- ◆ *Fritt fram att avtala om offentlig information? Skapa en god försäljningsstruktur i enlighet med EG-direktiv om handel med offentlig information, Go-Ahead for Agreements on Public-Sector Information? Creating a Good Sales Structure to Comply with the EC Directive on the Re-Use of Public Sector Information (2005/100-5)*



What did we investigate?

National Land Survey

In several reports, we have analysed how the National Land Survey's public-sector information offering affects the way in which the market for geographical information develops.

In a special report to the National Land Survey, we have also analysed financial accounting and pricing of this information.

SMHI

First in a case study, in the report *The State as a Commercial Operator*, and then in the report *Forecast for the Swedish Meteorological and Hydrological Institute*, we have analysed SMHI's data policy and made international comparisons.

Go-Ahead for Agreements on Public-Sector Information?

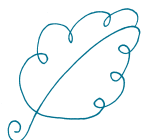
We have investigated the legal requirements for agencies to agree on and impose terms for offering state-produced information for subsequent reuse. We have also surveyed a number of agencies' licensing and contract conditions to gain

access to this kind of information. Agencies that provide information on a large scale for further processing include the Swedish Companies Registration Office, National Land Survey of Sweden, Swedish Patent and Registration Office (PRV), Swedish Maritime Administration, Statistics Sweden (SCB), the Geological Survey of Sweden (SGU), SMHI and the Swedish Road Administration.



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Companies Registration Office, National Land Survey of Sweden, Swedish Patent and Registration Office, Swedish Maritime Administration, Statistics Sweden, the Geological Survey of Sweden, SMHI and the Swedish Road Administration.



It is for each member state to decide whether it wishes to offer the information freely, without licences or other conditions.

The background is the EC Directive on the Re-Use of Public Sector Information, which is intended to generate opportunities to develop a market for public-sector information in the EU. It is for each member state to decide whether it wishes to offer the information freely, without licences or other conditions. If a member state chooses to impose terms for the use of this information, the licensing conditions must be reasonable and clear, and must not reduce the scope for reusing the information. Nor may the terms and conditions otherwise restrict competition on the market.

Other reports

Owing to their previous monopoly positions, many commercially active agencies and SOEs have unique access to data and other forms of infrastructure, with precedence over other market operators. In our report *The State as a Commercial Operator*, we identified these agencies and enterprises, and analysed how this situation affects competitive conditions on the market.

In our report *Six Deregulations*, we analysed the political governance of deregulated infrastructural sectors, such as electricity, postal services, telecoms, rail transport and domestic aviation. In particular, we discussed the question of how the joint infrastructure has been organised and regulated to afford competitively neutral access. Previously, in a special report, we had examined the postal market and the importance of giving market operators access to postal infrastructure.

In our report on the Swedish Institute of Building Documentation, we investigated and proposed ways in which public information and research material for the building sector should be organised to safeguard competitive neutrality and increase access to basic information.



Many commercially active agencies and state-owned enterprises have unique access to data and other forms of infrastructure, with precedence over other market operators.

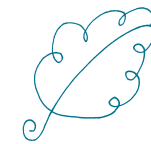


What did we find?

National Land Survey

The National Land Survey has long had a monopoly in collection and production of basic geographical data. It is also largely alone, or in any case predominant, in selling ‘value-added’ (processed) information. But in recent years a growing number of private companies have shown an interest in penetrating a market for value-added data. These companies’ entry is, however, impeded by the fact that they find it difficult to gain access to the National Land Survey’s basic information on the same terms as the agency itself.

The lack of clear, well-defined boundaries between basic data production on

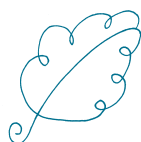


The lack of clear, well-defined boundaries between basic data production on the one hand and data processing on the other makes it difficult to tell whether there are revenue flows or other forms of exchange between the two.

the one hand and data processing on the other makes it difficult to tell whether there are revenue flows or other forms of exchange between the two. If so, the National Land Survey’s conditions for making use of basic data would differ from other operators, and competition would not take place on equal terms. Combined with the market’s low confidence in the agency’s ability to be competitively neutral vis-à-vis its own work of selling geographical information, this



In recent years a growing number of private companies have shown an interest in penetrating a market for processed information.



Combined with the market's low confidence in the agency's ability to be competitively neutral in relation to its own activities in selling geographical information, this reduces the growth potential of a market for value-added information.

reduces the growth potential of a market for value-added information.

We have proposed that administration of databases containing basic geographical information should be included in the Survey's core activities. In accounting and organisational terms, this administration should be separated from the commercial work. Only then can it be offered convincingly, on equal terms, both to the agency's own commercial activity and to other market operators.

SMHI

Our society needs information of national importance, in the form of weather and environmental data, and other services within the framework of the Institute's core activities. SMHI is thus required to offer these as broadly as possible, on a non-profit basis, and give priority to developing these functions. We have therefore proposed that SMHI should apply a more liberal and generous data



Society needs key nationwide weather and environmental data, like other core SMHI services. The Institute must provide them with maximum coverage, on a non-profit basis, and give priority to developing them.

policy than at present, and provide more competitively neutral access to basic weather and environmental data. As the basis for this kind of policy, what may be regarded as 'basic data' and, accordingly, count as a state responsibility and a core agency activity should be defined more closely. We also proposed that collection, administration and development of databases containing basic environmental information within SMHI's sphere of responsibility should be entrusted to a special network agency with no commercial activities.

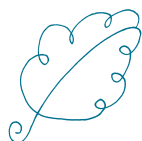
Go-Ahead for Agreements on Public-Sector Information?

A range of different rules and control documents underpin the agencies' scope to conclude agreements concerning conditions, and to impose them on other parties that seek to process the agencies' public-sector information. Since the agencies' approaches to and ways of dealing with copyright (for example) vary widely, these conditions are extremely diverse, although they relate to similar kinds of information and similar agencies. Thus, information management among the agencies, or access to public-sector information, in Sweden cannot be described as particularly standardised. Some work remains to be done before Sweden may be deemed to fulfil the requirements of the EC Directive on the Re-Use of Public Sector Information.

In this report, we put forward proposals for a number of measures to implement the directive and create a favourable sales structure. The Government should carry



Thus, information management among the agencies, or access to public-sector information, in Sweden cannot be described as particularly standardised.



The Government should carry out an overview of the state's management of copyright and catalogue protection, and clarify the rule concerning copyright in the agencies' business activities.

out an overview of the state's management of copyright and catalogue protection, and clarify the rule concerning copyright in the agencies' business activities. It should issue a policy that states when agencies may reasonably be allowed to assert such a right for public documents and other publicly produced information.

The agencies' interest in protecting their own business activities may otherwise easily come to determine how this rule is interpreted. The EC Directive on the Re-Use of Public Sector Information is broader in scope than current Swedish legislation. The Government therefore needs to issue an ordinance on the resale of publicly produced information that is not regulated in, for example, the Freedom of the Press Act, Secrecy Act or Administrative Procedure Act.

Bringing about standardisation and improving the accessibility of publicly produced information also calls for greater clarity in the wording of agencies' terms of reference and official appropriation documents. These should clearly specify when agencies are obliged to offer certain information on a non-profit basis, and when commercial sale of information is permitted. This requires a detailed investigation of the scale and limits of the agencies' business or commercial activities. Activities and work of this kind should be defined and regulated in detail.

Other reports

In *The State as a Commercial Operator*, we found that approximately a fifth of the agencies and enterprises surveyed owned or controlled the kind of infrastructure or other joint functions to which all market operators would need equal access. The regulations on market entry that have been introduced, or the separation that has taken place, are far from adequate to



Increased use of a model in which there is strict organisational separation of infrastructure would provide a better point of departure for creating competitive neutrality on the market.

ensure competitively neutral access.

In *Six Deregulations*, we explored progress in subjecting markets like postal services, telecoms, electricity, railways and aviation to competition. Competitively neutral access to infrastructure calls for either hiving-off of networks and the like in a separate organisation, or special entry regulations for the companies that do not own networks. Here, too, we found that such regulations and measures have been introduced only to a certain extent. The separation effected for railways, for example, is not entirely complete. When it comes to the rules for access to the telecoms network and postal infrastructure, these have been introduced successively, during such a long drawn-out process that it has probably curbed market growth. Only recently have these measures had any noticeable effects on competition.

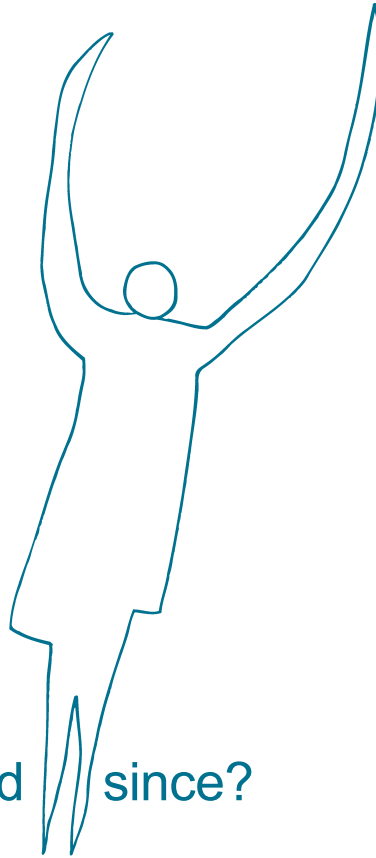
The conclusion we draw from the activities investigated in the two reports is that increased use of a model in which there is strict organisational separation of infrastructure would provide a better

point of departure for creating competitive neutrality on the market. Placing the strategic infrastructure in an agency of its own, a non-profit company or organisation would afford greater scope for drawing up, and credibly applying, competitively neutral regulations for market entry.

When it comes to the postal market we have proposed, in our report *The State's Commitment in the Postal and Payment Markets*, separating key portions of the postal infrastructure from Posten AB. This applies, for example, to the PO box system, change-of-address and mail-forwarding systems, postal codes and inspection of door codes. Given Posten's unique access to the nationwide distribution network, we propose that a commission of inquiry should study how competitively neutral conditions can be attained in the market.

In our report on the Swedish Institute of Building Documentation, we found that the building sector has been given

special treatment in relation to other industrial sectors through partially public funding of the Institute and its information, which is unique in the sector. Henceforward, the Institute should not receive government grants for its activities. The libraries and databases with basic research information that have been established within the Institute should, however, be seen as a state responsibility. We therefore proposed their transfer to the state library structure and incorporation into the Library of the Royal Institute of Technology (KTH) and the LIBRIS library database. It should be possible to copy this information, and it should be free of charge and available on loan. This would enhance the accessibility of the research material, according to the EC Directive. The Directive lays down that member states should preferably offer unrestricted access to publicly produced basic information to encourage more rapid growth in the economy.



What has happened since?

National Land Survey

The **National Land Survey Commission** (2003) emphasised that the objective of future information development is wide-ranging use for the maximum benefit to society. The content, quality and basic services of this information must be adjusted to technological development and user needs. Development of services on the market through other operators should be promoted. In the Commission's view, the agencies' responsibility for public-sector information needed adjusting to European guidelines on the content of such information and conditions for providing it.

For example, the prices for certain selected information should be lowered considerably.

The Commission proposed giving the National Land Survey national coordination responsibility for geographical information and property data. It also proposed a special market and competition board to boost users' and competitors' confidence in

the National Land Survey's sales activity.

Both in the IT Bill of 2005 and in the National Land Survey Bill (September 2005), the **Government** has addressed the issue of how to increase access to the Survey's basic information. Pricing is emphasised as a decisive factor in determining the extent to which the information is used. The Government therefore proposes that the pricing of, above all, geographical information should be reviewed for this purpose. It also supports the proposal of national coordination responsibility for the National Land Survey. In the National Land Survey Bill, the Government simultaneously identifies commercial work as a key instrument for spreading the use of geographical information and property data in society.

SMHI

The **Government** has taken no special decisions in terms of increasing access to SMHI's weather and environmental data. This issue may, however, come to the fore

again in conjunction with Sweden's response to the EC Directive on Re-Use of Public Sector Information.

Go-Ahead for Agreements on Public-Sector Information?

Sweden has been urged by the European Commission to speed up its implementation of the EC Directive on Re-Use of Public Sector Information. Our report will now serve as documentation for the Government's decision on what needs to be done to implement this directive in Swedish law.

Other reports

In the light of the problems relating to access to infrastructure pinpointed by us in reports including *The State as a Commercial Operator* and *Six Deregulations*, the **Regulatory Reform Commission** has (in 2005) addressed the need for stricter supervision of access to infrastructure on the markets concerned. The Commission has also recommended exploring the scope for a new and more market-oriented procedure for allocation of radio frequencies. In addition, it proposed certain steps to tighten up regulations concerning access to postal infrastructure.

The **Postal and Cash Services Commission**, too, presented (in 2005) its proposals for certain changes and measures to tighten up the regulations concerning access to postal infrastructure. However, in its official comments on the proposals to the Commission, the Swedish Agency for Public Management made the point that access to postal infrastructure is necessary

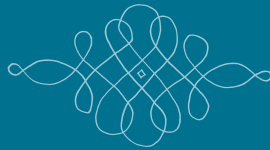


Without access to a nationwide distribution network with distinct features of a natural monopoly, a postal operator has little interest in or chance of establishing itself as a genuine competitor to Posten.

but not sufficient to boost competition in the postal market. Without access to a nationwide distribution network with distinct features of a natural monopoly, a postal operator has little interest in or chance of establishing itself as a genuine competitor to Posten. We have therefore proposed a pilot access regulation for Posten AB's distribution network. Regulation of this kind would entitle all licence-holders, on competitive neutral terms, to make use of terminals, postmen, etc for consignments in locations where these licence-holders lack distribution networks of their own.

The above-mentioned two commission reports have now been presented to the Government, for further consideration, and a decision is awaited.

When it comes to activities in the Swedish Institute of Building Documentation, the **Government** has adopted our proposal, deciding in 2003 that the information should be transferred to the Library of KTH. Government grants to the Institute have also been discontinued.



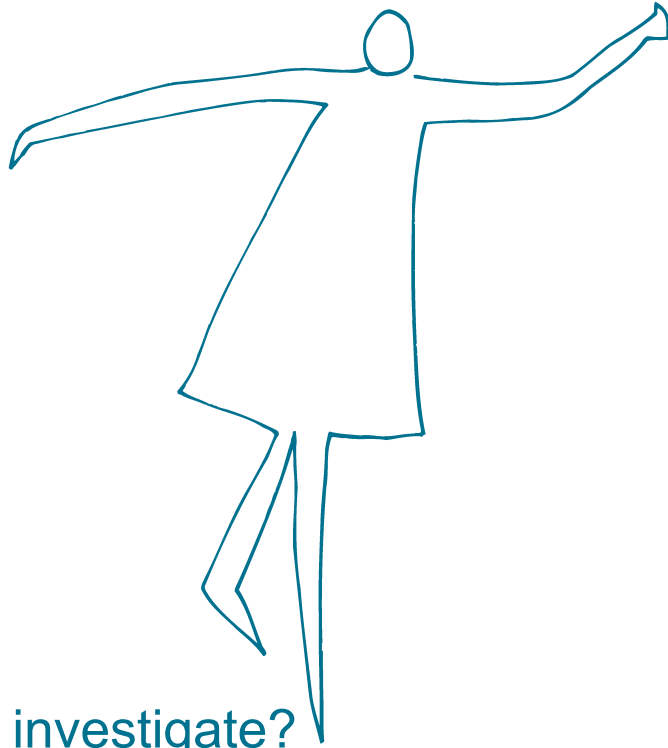
Alternative market systems

A high proportion of public services are still produced in and by agencies that are free from competition and pressure to change. Bringing a more competitive environment to bear on public services that can be produced on the market would bring about market expansion and also boost efficiency. This would release resources for the agencies, enabling them to focus better on their core activities.

In certain service areas, there are emerging markets where the state need not become involved as purchaser or provider. Instead, the state's function is to inform others, and draw up effective and appropriate market regulations for the purpose of creating and maintaining functioning markets.

List of reports

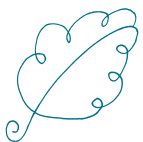
- ◆ *Åtgärder för ökad konkurrens inom den statliga sektorn, Measures to Increase Competition in the State Sector* (1994:26)
- ◆ *Bolagisering av uppdragsverksamheter – Arkeologi, Lantmäteri, Vägverket Produktion, Incorporation of Commercial Activities — Archaeology, Land Surveying, Roadbuilding* (364/97-5)
- ◆ *Privatfinansiering genom partnerskap, Private Funding through Partnership* (1998:12)
- ◆ *Statens åtagande på post- och betaltjänstmarknaderna, The State's Commitment in the Postal and Payment Markets* (22/98-5)
- ◆ *Staten som kommersiell aktör, The State as a Commercial Operator* (2000:16 and 2000:16A)
- ◆ *Prognos för SMHI – myndighet, bolag eller både och?, Forecast for the Swedish Meteorological and Hydrological Institute: Public Agency, Company or Both?* (2002:3)
- ◆ *Synpunkter beträffande utformningen av en långsiktig lösning för Hundskolan i Sollefteå AB, Views on the Nature of a Long-Term Solution for the Dog Training Centre in Sollefteå* (2002/189-5)
- ◆ *Uppdrag och upphandling i Lantmäteriet – Underlag för Lantmäteriutredningen, Commercial Work and Purchasing in the National Land Survey of Sweden — Documentation for the National Land Survey Commission* (2003:12)
- ◆ *Bättre konkurrens med kommunala bussbolag? – En utvärdering av försökslagen inom busslinjetrafiken, Better Competition with Municipal Bus Companies? An Evaluation of the Pilot Statute in Bus Transport* (2004:24)
- ◆ *Avregleringen av sex marknader – Mål, medel och resultat, Six Deregulations — Ends, Means and Outcomes* (2004:28 and 2004:28A)
- ◆ *Six Deregulations — Liberalisation of the markets for electricity, postal services, telecommunications, domestic air traffic, rail and taxi services in Sweden* (2005:8)



What did we investigate?

Measures to Increase Competition in the State Sector

We investigated the scope and focus of central-government activities procured on a competitive basis, and possible measures to promote public procurement. The background is that the proportion of procurements taking place through competitive sourcing has risen only slowly. This is despite the fact that most public services are both cheaper and better when competitively sourced than when they are insourced, i.e. purchased directly from the public sector's own production.



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are both cheaper and better when competitively sourced than when they are insourced.

Private Funding through Partnership

We have explored the alternative market system of public-private partnership (PPP), sometimes also known as private finance initiative (PFI), in the road and rail sectors. In PPP projects, following procurement, private enterprise provides public services throughout the economic life of an investment. Efficiency gains over and above those derived from normal procurement are attainable, since the private sector assumes the risk of, and responsibility for, planning projects, building, administering, running and financing the investment. One factor prompting our study was that Parliament and the Government were anxious to explore further the option of rationalising the use of public funds for infrastructural investments. Previously, the only PPP project implemented had been the Arlanda Express rail link.

National Land Survey

We have evaluated the conduct of the National Land Survey in the market for

geographical information and property data. We studied, on the one hand, the National Land Survey's official function of producing basic data, and on the other its commercial activity of processing data. The combination of these functions in the National Land Survey may impede the emergence of a larger market.

SMHI

The European market for meteorological, hydrological and oceanographic (MHO) services is deregulated and competition in Sweden and Europe, as well as in the rest of the world, has increased. Our work has included evaluating the functioning of this market and SMHI's and its competitors' market status.

The State's Commitment in the Postal and Payment Markets

Competition in the market for nationwide postal services, such as delivery of individual mail items, has not increased despite deregulation of the postal market.

Posten AB is still the only operator capable of offering nationwide postal services, largely owing to the extensive distribution system that Posten has owned since before the deregulation and incorporation. We have studied how competition can be enhanced for the nationwide postal service.

Other reports

Many of our other reports cite alternative market systems. Systems of this kind are touched on in such reports as *Incorporation of Public Agencies' Commercial Activities*, about road production, archaeology and land surveying; *The Aim is Efficient and Reliable Pension Administration*, about public occupational pensions; *The Dog Training Centre in Sollefteå*, about the supply of working dogs; *Better Competition with Municipal Bus Companies?*, about the market for bus services; and, finally, *The State as a Commercial Operator* and *Six Deregulations*.



What did we find?

Measures to Increase Competition in the State Sector

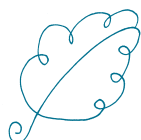
In the Budget Bill back in 1990/91, the Government laid down the principle that the public sector must be subjected to more market-type conditions. Contracting and procurement should be tested systematically. Our study shows that these general guidelines have not affected the agencies' behaviour to any great extent.

The proportion of services purchased from external entrepreneurs is unchanged at some 10 per cent of administrative costs. Seventy per cent of the services

bought from external entrepreneurs have been procured in competition. Accordingly, only about 7 per cent of the agencies' total activities have undergone competitive sourcing according to the Public Procurement Act. Strangely enough, despite a functioning competitive market for ancillary services, these services were procured in competition to a lesser extent than the agencies' core activities.

We find that clear political initiatives are needed for pilot projects involving competitive sourcing, to boost the share of activities facing competition in the agencies. Moreover, there is a need to identify services suited to procurement. Criteria for identification of suitable activities are when the functions have only minor connections, in terms of skills, between the official and contracted-out tasks; when the service can be defined precisely; and when there is functioning or potential competition.

Current accounting systems do not take into consideration appropriate accounting of contract work or services.



In the Budget Bill back in 1990/91, the Government laid down the principle that the public sector must be subjected to more market-type conditions. Contracting and procurement should be tested systematically.

This fact impedes the scope for compiling information about the volume of services procured, especially if they are to be distributed among various forms of procurement, such as direct purchasing or competitive sourcing. A more functional accounting system or separate statistical procedures are needed to allow monitoring of the proportion of services procured in competition.

Private Funding through Partnership

PPP projects add value through increased incentives, innovative thinking and use of the private sector's commercial skills in planning, design and provision of public services within the civil-engineering sector. Efficiently distributing the risks of, for example, building delays, hidden defects in buildings or changes in political decisions is key to attainment of this added value. The idea is that risk should be distributed to the party capable of managing it at the lowest possible cost. The purpose is to transfer risk of the kind that gives private suppliers incentives to improve their implementation and services, and also to generate businesslike flexibility in the public sector. The distribution of risk and all other conditions and requirements are regulated in agreements that clarify responsibility and financial rights and obligations.

Cost coverage for the project may be attained either through user charges or by remunerating the private project company

directly from the state, based on use and standards.

There is no direct obstacle to PPP, an alternative market system, in infrastructural investments in Sweden, except that the Road Act should be modified. The advantages derived are associated with higher efficiency, in the form of lower costs and improved quality. Efficiency gains arise over a longer contract period while, at the same time, the state is better able to govern and control the costs of the project over time. PPP forces purchasers to decide on all the implications of the project at an early stage, which in turn extends the preparation period and costs of the procurement. This means that PPP is best suited to major projects.

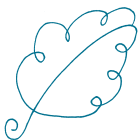
For PPP projects to achieve favourable results, there must be strong political support for partnership solutions and the scope for rescheduling projects at earlier dates must not be overused in such a way as to use up future investment opportunities. Moreover, the costs of private loans, on the one hand, and the actual costs of state loans or grant funding on the other must be compared. To bring about competitive pressure with a sufficient number of bidders, there must also be active purchasers before the procurement.

A PPP model adapted for Sweden should be devised, to obtain a suitable organisation for governance and control; a means for Parliament to exert influence and control; and an adaptation of the remuneration system to Swedish transport conditions.

National Land Survey

The National Land Survey's activities as both producer and processor of basic geographical information and property data hamper the emergence of a market for value-added data.

The Survey is not customer-oriented enough in its contacts with distributors. There is also a fear, on the part of the private information-processing companies,



PPP projects add value through increased incentives, innovative thinking and use of the private sector's commercial skills in planning, design and provision of public services within the civil-engineering sector.

of describing ideas, potential products and current customer contacts in their relationship with the National Land Survey in its capacity as seller of basic data. This is because the agency is, at the same time, a competitor. This fear means that people hesitate to start new businesses and market development is impeded. We therefore propose detaching the Survey's production of value-added data from its function of purchasing, administering and selling basic data. We also recommend subjecting to competition, through public procurement, all the agency's production of basic data.

SMHI

In the fields of meteorology, hydrology and oceanography, basic information must be available in order for value-added goods and services to be produced. SMHI's content and administration of basic information in this area gives it competitive advantages in selling value-added products. Instead, SMHI should concentrate on developing its provision of basic information and other official functions, successively phasing out its commercial work. Thus, an organisation can be created that affords all operators competitively neutral access to strategic infrastructure.

The State's Commitment in the Postal and Payment Markets

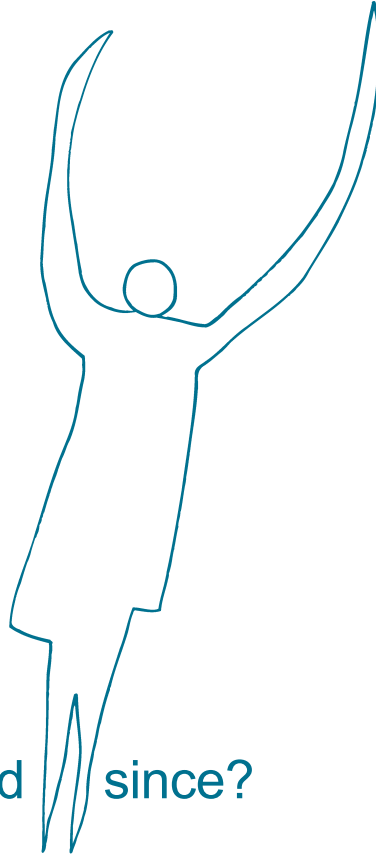
The study demonstrates Posten AB's competitive advantage in providing uniform postal services throughout the country, thanks to its nationwide distribution network. Letting Posten retain the network on incorporation meant that competitors had little chance of offering nationwide, competitively priced delivery of, for example, individual mail items. We propose the appointment of a commission of inquiry to study what is required to ensure that, on a deregulated market, the former monopolist competes on the same terms as other postal operators in the market.

Other reports

In *The State as a Commercial Operator* we recommend requiring public procurement in agencies' internal purchasing, thereby subjecting their in-house production to competition. In *Incorporation of Public Agencies' Commercial Activities*, we cite one advantage of incorporating state business activities: that the agencies can no longer engage in insourcing. Instead, they are obliged to purchase services in competition, according to the Public Procurement Act. *The Aim is Efficient and Reliable Pension Administration* shows that the shrinking activities of the National Government Employee Pensions Board could, with competitive sourcing, be made more efficient.

In *The Dog Training Centre in Sollefteå*, we point out the importance of the state supporting an incipient market by public procurement of a social responsibility. *Better Competition with Municipal Bus Companies?* reports on the competition and market problems that arise when municipal bus companies take part in public procurement outside the municipality and the municipality does not subject the bus companies' activities in the municipality to competition. Our proposals therefore include phasing out the municipalities' option of running bus services outside their own boundaries.

In *Six Deregulations*, we find that for postal services, telecoms, electricity, railways, aviation and taxi services to be fully subject to competition, entry into and exit from the market must be entirely free — which is not true of any of these markets at present. Producers cannot be described as acting entirely freely vis-à-vis another; nor can consumer choices among the various market options be said to be free and unimpeded. For true competition to be attained, both better and more appropriate market regulations and more effective supervision are required.



What has happened since?

Measures to Increase Competition in the State Sector

In its 1997/98 guidelines on administrative policy, the Government made it clear that many services in the central government agencies that are currently insourced can become considerably more efficient if they are procured through competition. The background to the Government's statements is that the proportion of procurements through competitive sourcing is still, today, not as high as it should be in view of the efficiency gains this means of

public procurement can afford. General guidelines have not influenced the agencies' behaviour; rather, they need to be translated into more direct means of control and instructions in official appropriation documents. Nor has improved reporting on public procurement, which permits better monitoring of competitive sourcing, been given priority by the agencies. Accordingly, distinguishing the share of services in the public sector that have been procured by competitive means will remain difficult.

The lack of effective supervision of public procurement was raised by the **Public Procurement Committee** during 1999. The Committee proposed that a charge for damaging the market could be imposed if agencies, municipalities and county councils fail to comply with the procurement regulations. At present, the supervisory authority — the National Board for Public Procurement (NOU) — has no means of intervening in the event of improper direct procurement, for



In its 1997/98 guidelines on administrative policy, the Government made it clear that competitive sourcing could greatly boost the efficiency of many agency services that are now insourced.



The proposed 'market detriment charge' would fail to address the issue of agencies, municipalities and county councils opting not for procurement, but for insourcing instead.

example. The Government has not taken a stance on the matter and is, at the time of writing (the end of June 2005), awaiting the new EU's new Public Procurement Remedies Directive.

On the other hand, the proposed 'market detriment charge' would fail to address the issue of agencies, municipalities and county councils opting not for procurement, but for insourcing instead. This is because the Public Procurement Act applies only to purchases among legal entities. If the agency has in-house production, there is thus nothing in the law to say that the central or local government must procure the goods or services concerned on a competitive basis. In this case, there is a need for politicians to govern administration better to achieve sought-after efficiency gains.

Private Funding through Partnership

A **ministry memorandum** of 2000 analyses a model for future partnership arrangements. The working group proposes the appointment of a special delegation under the Ministry of Industry, Employment and Communications with responsibility for developing the model and, in cooperation with the Swedish Road Administration and the National Rail Administration, prepare three procurements of PPP projects. These projects are then to be evaluated to assess what efficiency gains are obtainable in Swedish projects. To date (the end of June 2005), the **Government** has not wished to develop a Swedish PPP model or attempt new PPP projects.

National Land Survey

The National Land Survey Commission (2003) proposed that parts of the National Land Survey's commercial work should be discontinued and that the remainder of this work should be distinguished more clearly, in terms of financial results, from the Survey's other activities. The Commission recommended that the agency should decide for itself whether it wanted to procure the production of basic data on the market or purchase it internally. In its National Land Survey Bill of September 2005, the Government has proposed clearer demarcation of commercial work and governance of the agency on the Government's part. For example, assignments that are not connected with its core activities and those where other operators already exist should be reduced in the long term. According to the Government, however, the commercial work is nevertheless important to safeguard the supply of high-quality services linked to the National Land Survey throughout Sweden. Overall, this work should therefore be allowed to continue without further restrictions.

SMHI

Since year-end 2003, **SMHI** has implemented a reorganisation. Accordingly, the Institute considers that it has been possible to achieve a better focus both in its infrastructural functions and in its commercial and business activities.

The State's Commitment in the Postal and Payment Markets

The task of the **Postal and Cash Services Commission** (2005) has been to carry out an economic analysis of the impact of deregulation of the postal market. The Commission has not found it necessary, as a means of achieving competitive neutrality, to propose restricting Posten's sole right to the nationwide distribution network.

In its Budget Bill for 2006, the Government has again emphasised the need to focus and demarcate the agencies' core activities. At the same time, Parliament has once more addressed the issue of equal competitive conditions between the private and public sectors, and urged the Government to propose measures to solve these problems.

The Swedish Agency for Public Management is working on behalf of the Government, in various ways, to promote the emergence of an efficient public sector. We perform surveys and issue reports as documentation for the Government to take stances and decisions in a range of policy areas.

This publication presents the Agency's work on competition issues in the public sector in recent years. It summarises the results of our surveys and reports in this area. We wish to share our experience, and hope this publication will assist further reassessment of the issues concerned.



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