

Public procurement reform in the EU: start of a new era?

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“Public procurement reform in the EU: start of a new era?”

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Abstract:

Research done by researcher involved with the IMP approach has shown clearly that companies that manage to build effective long-term relationships with its suppliers in many cases can achieve higher efficiency, higher quality and a higher rate of innovation than companies who rely solely on competitive, arms-length transactions. Private companies can freely use high-intensity relationships (Araujo et. al., 1999) when this is suitable and thus achieve these advantages.

However, for public purchasers, the possibility to build long-term supplier relationships has typically been limited by European and national public purchasing directives. The EU has recently initiated a comprehensive reform of the directives, with among other things, a particular focus on public-private collaboration and innovation. The traditional, arm's length approach towards suppliers seems to give some way to more dialogue and interaction based purchasing approaches.

This article will first summarize research that has been critical of the previous public purchasing directives and that has aimed to explain how and why these directives have been limiting. Next, we then discuss the upcoming changes in the EU public purchasing directives in the light of this criticism and we develop some conjectures about the effects we think they might have. Finally, we propose some important areas for future research in this area.

Keywords: Public purchasing, policy, effects of relationships

“Public procurement reform in the EU: start of a new era? A critical look at the potential for more relationship based procurement”

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1. Introduction

In April 2016, the EU introduced a reform of its framework of directives and rules for public procurement. The reform resulted in a number of changes in the framework, some of which are specifically aimed at improving the level of innovation achieved through public procurement. As the stance towards EU's framework for public procurement commonly held by IMP researchers typically has been critical (examples....) – mainly due to the alleged low level of innovation friendliness associated with competitive tendering procedures – the latest reform and its (partial) focus on innovation should be of interest to IMP researchers. Hence, the main purpose of this article is to conceptually analyze the changes resulting from the reform in view of the critical arguments usually brought forward by IMP researchers. We are concerned with two key questions, which approach this purpose from two opposing angles: (1) Do the changes in the reform effectively address these arguments? And, (2) Are the critical arguments used in past IMP research still valid in view of the developments that have taken place in developing and reforming the framework?

The research in this paper is essentially analytical conceptual (Wacker, 1998), as it consists of considering and building logical arguments about cause and effect relationships between variables in conceptual models. The new directives have hardly been implemented in practice and studying their effect in practice will take years. However, analyzing the changes in a conceptual manner allows us to consider how they affect existing (conceptual) models in the IMP literature, for example models about the relationship between buyer-supplier interaction and innovation. This conceptual paper thereby contributes to developing focused hypotheses for forthcoming empirical research.

The organization of the paper is as follows. First, we define public procurement in general, discuss its impact and we consider different ways in which the EU directives for public procurement have been addressed in the literature. Next, we present a review of the literature that can be regarded as critical towards the EU directives for public procurement (“pre-reform”). We draw on sources within as well as outside the IMP. The key points in the criticism are summarized at the end of the review (conceptual arguments). The following section describes and conceptualizes the most important changes in the EU directives as part

of the latest reform. In the following section, the implications of these changes are considered in the light of the traditional criticism described earlier. We discuss to what extent the reformed set of EU directives can be seen as the beginning of a new era, effectively addressing some of the critical views held by IMP (and affiliated) researchers.

2. Public procurement, its impact and the EU directives

We may define public purchasing as any acquisition made by a public organization and agency where public money is spent to acquire goods and/or services from non-public suppliers. Economically speaking, public purchasing is of great importance in most developed countries. Recent research published by Loader (2015) claims that it constitutes on average 12.8% (roughly one-eighth of the total) of GDP in OECD countries, while Matthews (2005) reports that government purchasers account for over 20% of GDP in the US, and Thai (2001) estimates between 10% and 30% of GDP. It is important on a local level as well, as Arlbjørn and Freytag (2011) reports that large Danish municipalities typically have purchasing budgets over 2 billion DKK.

Scandinavian welfare economies with a mixed-economy approach, large public health and education sectors and large redistributive tax bases have even more of their GDP generated by public purchasing. In Norway, for example, public purchasing constitutes more than 350 billion NOK a year, about 15% of the country's GDP (Norwegian government, 2013). Specific sectors in these countries, such as defense, education, transportation and health services are particularly important arenas for public purchasing (Snider and Rendon, 2008). Grudinschi et. al. (2014) reports that Finland, more than half the costs related to public services are incurred in the health sector, and it accounts for 93% of service procurement from private service providers. For many suppliers, sale to public buyers constitute a significant part of their business (Purchase et. al., 2008; Uyarra et. al., 2014). In this way, the rules and regulations regarding public purchasing are extremely important for the use of public money, as well as for the business of numerous private companies.

Public purchasing is not only economically important, but also used consciously as an instrument of public policy (Thai, 2001). Thus, we have seen public purchasing used to further policy aims like the promotion of environmental solutions through "green" purchasing (Humphreys et. al., 2003;) and the improvement of working conditions by requiring companies buying from the public to show that they have systems for worker health and safety (Charles et. al., 2008). Also, the broader concept of corporate social responsibility (CSR) through use CSR criteria in public purchasing (Albareda et. al., 2007) has been mentioned. More overarching ambitions like the possibility to use public purchasing to promote the development of competitive markets, particularly where market failures are present (Caldwell et. al., 2005), have also been raised.

Lately, a lot of focus has been directed towards the possibility to use public purchasing as a tool to promote innovation (Caldwell et. al., 2005; Essig and Batran, 2006; Hommen & Rolfstam, 2009; Lember et. al., 2011; Georghiou et. al., 2014; Uyarra et. al., 2014, Waluszewski and Wagrell, 2014). More specifically, public purchasing have been thought to help counteract market failures (Uyarra et. al., 2014) and to provide “lead markets” (Uyarra et. al., 2014, Waluszewski and Wagrell, 2014). A primary means to promote innovation through public purchasing has been outsourcing, and particularly doing this through so-called public-private partnerships (Parker and Hartley, 2003; Essig and Batran, 2006; Zheng et. al., 2008; Georghiou et. al., 2014, Waluszewski and Wagrell, 2014). Lember et. al. (2011) claims that the European Union (EU) so far has taken limited advantage of the possibility to use public purchasing to support innovation, and Georghiou et. al. (2014) concurs and notes that EU proposed to make fostering of innovation an explicit part of the public purchasing directives in 2011. These changes were finally made, and introduced in 2014. Thus, one research aim of this article is to assess these changes and what effect they may possibly have on the way that public procurement is performed.

An interesting and challenging feature of public procurement is that it is considerably more circumscribed than private purchasing. Public procurement is strictly regulated by international regulations (EU directives in Europe), as well as national rules and procedures related to these international regulations (Arlbjørn and Freytag, 2011; Norwegian Government, 2013). From very early on, these regulations were criticized for favoring market-oriented approaches to purchasing, and hindering or directly forbidding, more relationship-based approaches (Erridge and Nondi, 1994; Parker and Hartley, 1997; Lian and Laing, 2004; Bygballe et. al., 2010; Arlbjørn and Freytag, 2011; Mandiyambira, 2012). This difference has been thought to make public purchasing very different from private purchasing, like if they were equipped with less of a toolbox with which to promote efficiency, effectiveness and innovation than private purchasers. In a nice paper, Cox et. al. (1998), reversed the line of reasoning and looked at what happened to purchasing procedures when former public services were outsourced to private companies. In all seven cases observed, Cox et. al. (ibid) showed that procurement practices changed. Purchasing became more strategic, the breadth of tasks assigned to purchasing widened considerably and purchasers became more professional and better educated. Results on the use of more relationship-based purchasing was mixed, however, with four of the seven cases turning to more relationship-based purchasing while one became more tuned towards competitive purchasing.

Other researchers have claimed that we cannot judge the effect of the purchasing directives solely by the result they create. The results we can observe may equally or at least partly, be because the rules and directives are not used the way they should be (DeBoer and Telgen, 1998), for example through non-compliance (Gelderman et. al., 2006). This could happen because of public purchasers having less formal education in purchasing, and often doing purchasing as part of their job (Zheng et. al., 2007). Thus, the competence and knowledge

required for public purchasers becomes important (Harland and Knight, 2001; Thai, 2001). Furthermore, it seems that in recent years, governments have begun to encourage public purchasers to utilize to a greater extent the possibilities for interaction with suppliers that the existing framework offers. Examples of such interaction include annual supplier days and supplier conferences prior to the formal start of competitive bidding procedures. The National program for supplier development in Norway is a typical example of a deliberate effort to create more interaction between suppliers and public purchasers within the existing framework for public procurement.

3. A review of the literature critical to EU directives for public procurement

This literature review is divided into two parts. First, we describe the industrial marketing and purchasing (IMP) approach, and the way that researchers referring to that school describe the importance of relationship. The part ends with a description of the IMP approach to purchasing. The second part describes the empirically based articles and summarize how they challenge or confirm the way the public purchasing directives actually work today.

The IMP approach

Central to the IMP approach is the belief that relationships are central to organizations, and the content and form of relationships has been elaborated in their many books (Håkansson (ed.), 1982; Håkansson and Snehota, 1995; Håkansson (ed.), 2010; Ford (ed.), 2011). Relationships link businesses into industrial networks. According to this approach, effectiveness, efficiency and the ability to innovate all spring from the way in which an organization relates to identifiable other actor in its environment, i.e. from the form and content of its relationships.

Håkansson & Snehota (1995) describes eight characteristics of relationships. The four structural characteristics are continuity, complexity, symmetry and informality, and the four process characteristics are adaptations, cooperation and conflict, social interaction and routinization. For private organizations, it is mostly a question of whether the managers want to utilize these characteristics or not, but for public purchasers not all of these characteristics are as easy to implement. In particular, it has been argued that public purchasing directives prevent public companies from utilizing continuity, informality and adaptations. Arlbjørn and Freytag (2011) claims that public purchasing directives regulates transparency by emphasizing competitive procedures. Waluszkeski and Wagrell (2014) concurs, and Bygballe et. al. (2010) found that this is also the case in the construction industry, even though here the difference between public and private purchasing is smaller, because competitive tendering is the main way of doing purchasing in the whole industry. The competitive approach makes continuity harder, because competitive tendering usually creates contracts lasting for 3-7 years, and renewal for the next period us not automatic,

thus shortening the period that the public organization is working with the supplier. With reduced continuity, adaptations become less effective, since they rely on long-term relationships in order to turn the investments in them into a profitable venture. Also competitive arms-length tendering emphasizes contractual, formal relationships at the expense of informality.

Thus, public organizations tend to have shorter-term relationships with their suppliers than a privately owned organization can organize. This, according to the IMP approach, will then hamper its ability to function well, since effectiveness and efficiency are usually achieved through the workings of adaptations between activities and resources held by the two actors in the relationship (Håkansson and Snehota, 1995). The lack of longer-term relationships in which investment in adaptations and routinization can be recovered over time thus limits the public organization’s ability to achieve efficiency.

The length of a relationship is, however, not the only interesting part of a relationship. An organization can also use different types of interface to manage them. Araujo et. al. (1999) showed in their research article that a relationship can vary in intensity, from low-level Standardized interfaces (which works very much like the more traditionally named market transactions) through Specified and Translation to Interactive relationships (characterized by all of the characteristics mentioned by Håkansson and Snehota (1995) above). Table 1 below gives more information on the differences between the types of interface.

Types of interface	<i>Customer benefits productivity</i>	<i>Customer costs productivity</i>	<i>Customer benefits innovativity</i>	<i>Customer costs innovativity</i>
Standardized	Supplier can achieve economies of scale	Using standard solutions may create costs elsewhere	None	No direct costs
Specified	Supplier can achieve economies of scale and scope	Danger of supplier’s resources becoming locked-in	Minimal, only by supplier suggesting alternatives	Difficult for supplier to develop resources
Translation	Supplier can suggest effective solutions, beneficial to both sides	Supplier benefits are not necessarily shared with buyer	Supplier can propose innovative solutions	Supplier may lack sufficient insight into user context for radical innovation
Interactive	Open-ended interface allows for broad analysis of cost reduction potential on both sides	Deliberation costs: how to make best use of each other’s resources?	Insight in user context allows the supplier to consider/develop broad range of innovative solutions	Costs of joint development and learning.

Table 1: Different types of buyer-supplier interfaces and consequences for productivity and innovation (adapted from Araujo et al., 1999).

Araujo et. al. (1999) argue that an actor can try to arrange for a particular type of interface, but ultimately, relationships are decided by interactivity, not by decision made by a sole actor. In fact, interaction is so important to the IMP approach, that the approach has been claimed to have inter-firm relationships as its main unit of analysis (Dubois and Pedersen, 2002), thus separating it from other business researchers who usually take the individual firm as their unit of analysis. In a recent article, Araujo et al. (2016) revisit and further develop the implications of the four types of interfaces for the buying company and the suppliers.

The specific reference source regarding IMP thinking about purchasing are laid out in two other books by Gadde and Håkansson (1993) and Gadde (editor) (2010), where the first deals with purchasing as seen from and individual firms, and the second with issues related to the formation and utilization of larger supply networks. In chapter 9 of Gadde and Håkansson (1993), the authors outline a critique of the classic view of purchasing. This critique has six points, and each of these points are then perspectivized in relation to the IMP view on what is effective purchasing. These six points are:

- 1) The buyer should buy as close to the source as possible, viewing intermediaries as cost drivers only
- 2) The buyer should prefer freedom and independence, and thus any ties to the supplier should be viewed with skepticism as possible cost drivers
- 3) The buyer should see any supplier as interchangeable with others, and consequently replace any bad supplier with a better one
- 4) All companies become competitive by reducing their own cost. Internal efficiency should therefore be of paramount importance, not how they are linked to external companies
- 5) A buying contract is a zero-sum game, and the buyer and the supplier are directly competing for the margin of the contract.
- 6) Classic models leads to higher transaction costs due to the costs of running tender processes

All of these six points are somewhat problematic in relation to public purchasing directives, which are based on market-oriented perspectives prevalent in the classic view that this chapter is a critique of.

Gadde and Snehota (2000) provides us with a model for looking at economic consequences of supplier relationships. This model allows us to look at relationship costs and relationship benefits of one particular actor, and table 2 below show the relevant entries.

<i>Relationship costs</i>	<i>Relationship benefits</i>
Direct procurement costs (DPC)	Cost benefits (CB)
Direct transaction costs (DTC)	Revenue benefits (RB)
Relationship handling costs (RHC)	
Supply handling costs (SHC)	

Table 2: Model of economic consequences of supplier relationships (Gadde and Snehota, 2000)

As Gadde and Snehota explain, direct procurement costs (DPC) are the most visible category of costs and are equivalent to the price paid to the supplier. Direct transaction costs (DTC) are less visible, and comprise the cost related to the administrative handling of carrying out the steps in the purchasing process. Relationship handling costs (RHC) extend beyond individual orders and transactions and comprise the time and resources for dealing with a specific supplier relationship. Supply handling costs (SHC) are costs accruing from the supply base as a whole and are no longer attributable to specific supplier relationships. Individual supplier relationships can create specific cost benefits (CB) further downstream in the buyer's operations, for example enabling the buying firm to keep inventory costs to a minimum. Revenue benefits (RB) occur when specific supplier relationships contribute to increased sales and market expansion, for example due to specific, unique features in the buying firm's products and/or services. The key point behind the model is that buying firm's will experience complex trade-offs between different types of relationship costs and relationship benefits when they consider different purchasing approaches, e.g. single versus multiple sourcing or short-term contracts versus longer term collaborative partnerships. Cost efficiency is thus one area in which purchasing policy obviously have effects, and Gadde and Snehota's model will be used to look more closely at this later in the article.

Another important area is innovation. In the IMP approach, Håkansson (1989) has described that external partners and the relationship between them and the focal actor are central to the possibility of innovation. They are important both in the sense of the knowledge they hold and thus their ability to involve themselves directly with the development work. However, they are also important for their possibility to contribute resources into a structure that can actually produce and use the innovation once it is developed. Suppliers is a central category of such external partners, together with (lead) customers and interested third parties (Håkansson, 1989).

Empirically based criticism of public purchasing directives

While the IMP approach gives us a theoretically and empirically based foundation for saying that relationships matters, little has been done empirically within the IMP approach to specifically describe public purchasing situations. Even when the empirical base has been in such situations, criticism of the public purchasing directives may not have been the main purpose of the articles. Thus, the authors felt a need to look for empirically based articles specifically looking at public purchasing and relationships to see if the challenges pointed out by the IMP approach are actually experienced by organizations. Thus, we devised a method to search the literature for such empirically based articles. For this purpose, Google Scholar was employed and five key search phrases were used. Four of the searches used different search phrases related to relationship and IMP, while the fifth search was a wider search on criticism of public purchasing policies in general.

For each search, the first 50 items listed were checked. Some of the search phrases turned up hundreds of thousands of hits, but our search was limited to the first 50 listings in each of the five searches. The reasoning behind this was that this would turn up more than enough articles for further processing. Among these 50, items that were not articles were eliminated. We also eliminated articles that was not cited by others (less than 10 citations for work from 2010 and earlier, and less than 5 citations on works 2011-2013) and articles that were from before 2000 (since the EU directives on purchasing has been progressively changed, and the latest great change before the one we are examining was in 2006). The remaining abstracts have been read, and the authors have judged whether they are actually discussing challenges to public policies, and whether these challenges are based on empirical research or not. Only empirically based criticism has been accepted as part of this article. Finally, articles that occurred in several of the searches were designated as repeats. The remaining articles has been read in full, and judged for what they contribute to the discussion. Table 3 below shows the number of articles selected from each search phrase.

<i>Search phrase</i>	<i>Eliminated due to formal requirements (age, citations)</i>	<i>Eliminated due to non-relevance</i>	<i>Remaining articles (first occurrence only)</i>
Relationships in public purchasing	10	22	18
Relationship-based public purchasing	18	19	12 (+1 repeat)
Public purchasing and supplier networks	15	21	10 (+4 repeat)
Public Purchasing using IMP principles	25	18	5 (+2 repeat)
Criticism of public purchasing policies	25	18	7

Table 3: Articles selected from each of the search phrases

These 52 articles have then been read in full, and another 28 were eliminated due to lack of relevance or (more often) redundancy because they repeat arguments that other articles provide in a more detailed form. However, some more articles were added because they were referenced in the primary articles or because the authors knew them as being relevant, even though they did not show up in the searches. We wanted the criticism to be based solely on empirical work where real situations have been presented and analyzed. Thus, in the end, 12 articles were chosen for the main analysis, because they all had such empirical work. The rest of the articles have been used in the introduction and to comment on the analysis.

While using Google Scholar in this way may not be in line with more traditional systematic literature review, we believe it sufficient for our purpose here. The reason for this is that what we are looking for are empirically based works that are valid in themselves, and that together gives a varied and quality-assured idea of how the public purchasing directives are experienced in practical work. We do not pretend that the effects we are describing are the most important ones, nor that they represent a weighted average of what different organizations experience. For such a claim, we would need to do quantitative research on a large number of public organizations. We do, however, claim that each of the described effects are real, and experienced by at least one organization, and that they together give an impression of where and how the existing directives can be problematic, challenging and difficult to work with.

The twelve empirically based articles we have reviewed in the literature section are summarized in Appendix 1. Their main conclusions will also be presented here.

In a study of the introduction of purchaser-provider relationship in a former public R&D agency, Steffens & Matthews (2004) discovered that the IMP network framework was a suitable and useful way of analyzing the process. One of their findings was that introduction of purchaser-provider relationships actually created challenges to the existing way of thinking about costs, as well as the ways in which activities, resources and actors are related to each other.

Arnbjørn and Freytag (2011) describes in their article that there is a definite difference between private and public purchasing, and that this difference springs from the public purchasing directives. The way that the directives are interpreted, public purchasing focuses on competitive procedures in order to achieve transparency. However, they show through their two cases that even though the typical case generally behaves in the manner described above, the unique case describes a public-private partnership that allows for a more co-operative and trust-based relationship between the public organization and the private service provider, while still following the procedures outlined in the public purchasing directives. Their conclusion is thus that even though the massive critique of public purchasing directives for forcing public organizations to use competitive tendering and thus losing out on the possibility of utilizing relationship-based benefits may not be totally fair.

Public purchasing directives do open for other ways of purchasing, but this is not well known or much utilized among public purchasers. They are also claiming that the trend is for the two sectors to become more alike, as public purchasers learn to utilize more relationship-oriented purchasing methods that are within the allowances of the directives, and this leads to the possibility of fruitful learning across the two sectors (ibid), even though the frameworks they are working under are still very different.

Waluszewski and Wagrell (2014) are also skeptical to the public purchasing directives when it comes to their ability to support and sustain innovations. In their article, they show how a new business idea (a non-surgical procedure for prostate reduction) is successfully developed in a co-operation between public and private actors, only to be rejected as a sustainable solution when the project can no longer be defined as a research project and consequently public purchasing regulations govern the purchase of the solution. In particular, Waluszewski and Wagrell (2014) believes that the main reason for this is the way in which the public accounting system defines costs. This definition tends to inform the way in which a need is expressed by the purchasing organization, and thus tends to end a co-operative phase too early and change into a competitive phase and put the contract out to competitive tender at a too early stage.

Caldwell et. al. (2005) agree that the purchasing directives makes it difficult to have long-term relationships with suppliers. They claim that suppliers who want to try to build such relationships has to be extremely cautious of contravening competitive legislation. Nevertheless, they show three cases from the UK health sector where longer-term relationships have been successful under the public-private initiatives (PPI) umbrella (ibid). In fact, they are even optimistic about the possibility to use PPI's to make supplier markets more competitive. However, the success has not happened without problems. In one case, the researchers says that the inflexibility of public sector purchasing processes is a common supplier complaint. In another case, the supplier has a successful product, but is on the verge of bankruptcy due to the extremely low bid they needed to put in to win the competitive contract on the product they had developed.

In a paper by Lian & Laing (2004) on public sector purchasing of health services, the authors compared public and private sector purchasing of complex business services and concluded that public sector purchasing almost exclusively relied on a transactional approach, whereas private sector purchasing exercised a much more varied approach, also involving several highly advanced relational approaches. A similar tendency was observed by Furlong et. al. (1994) in their study of 700 SME's in the Humber Valley in UK.

Not only is there a general tendency to move towards transactional approaches, but the researchers have found evidence that some sectors of the economy is harder hit by the public procurement rules than other. For example, Furlong et. al.(ibid) also found a tendency to move away from SME's as suppliers towards larger companies. 21 years later, as Loader (2015) published his research on SME suppliers, this tendency had persisted, and even

become more accentuated, and this in spite of government policies to counteract the negative effects on SME's. While not wrong in itself, this may be counterproductive to public efforts and policies to support and develop local and regional businesses.

In another study of UK PFIs (Private Finance Initiative), Zheng et. al. (2008) shows that even though public procurement has a strong contractual focus, relational governance will become important over time when dealing with longer term contracts such as PFIs and other public-private contracts. The reason is simply that not even the best contracts can foresee all the possibilities and limitations to a relationship that can develop during a 25-40 year contract period. Thus, (partial) relational governance is the only alternative to constant wrangling over contractual clauses written many years ago and possibly no longer relevant.

They also point out the complicated procedures to establish such contracts in the first place, and the competence level needed for the public partner in order to engage in such purchases, as well as to monitor that the private partner comply with the many aspects of quality management involved in the delivery (ibid). These observances about the increasing transaction costs due to the need for contracting between the public health system and private service providers was also pointed out by Howden-Chapman and Ashton (2000).

Overall, an earlier study by Heijboer and Telgen (2002) shows a great variation in the use of the two existing main procedures for public procurement (open and restricted) across situations, as well as across countries. One would expect a more consistent use across countries, something which may indicate that local and national business traditions, as well as laws and regulations may play a role in the choice of procedures. It may also indicate that the individual purchaser's competence level and experience may be important for the type of procedure chosen. Erridge and Nondi (1994) found that mixed approaches are also much used, with competitive tendering but with pre- or post-tendering negotiations added.

Summary of empirically based criticisms of public purchasing directives

Theoretically, the most serious criticism of public purchasing directives is linked to the extent to which they allow a public purchaser to form long-term relationships with suppliers. As we recognized at the start of the literature, the IMP approach is strongly identified with the idea that strong relationships can be central in promoting efficiency, effectiveness and innovation in business organizations. We have documented empirically (see above and Appendix 1) that there is a strong tendency for public purchasers to use competitive tendering instead of more relationship-based solutions. This possibility to use relationship-based contracts thus represents a marked difference between public purchasing and private purchasing. According to Gadde and Håkansson (1993), this again creates problems in relation to effective purchasing, as competitive tendering builds on a market-driven logic that follows what they term the classic view of purchasing.

This problem may not be as crucial as it sounds, however. First off, even private purchasers, who have the possibility to use relationship-based contracts freely, do not choose to do so for all sorts of purchasing. Theoretically, this fits with thoughts of low- and high-level intensity in relationships as laid out by Araujo et. al. (1999). In other words, even within an IMP approach, we would expect to see many more low-intensity relationships than high-intensity relationships, and public purchasing directives and their competitive tendering are sufficient as tools for handling the more Standardized interfaces (Araujo et. al., 1999). Thus, it is mostly for the high-intensity interface types that private purchasers have a tool (relationship-based contracting) that public purchasers lack. Arlbjørn and Freytag (2011) observed accordingly that their “normal” case used competitive tendering (a standardized interface according to Araujo et. al. 1999) for their purchase of paper and experienced no principal problems with that. Lian and Laing (2004) and Furlong et. al. (1994) also confirms in their studies that the competitive tendering method works fine for many public purchases, particularly when there is well-developed market for the products and services being bought. It is when there is a need for products and services that are complex and/or not currently existing that the competitive tendering method becomes a challenge.

Another point is that public purchasers in many empirical settings use mixed methods, where negotiations are used either before or after competitive tendering (Erridge and Nondi, 1994; Heijboer and Telgen, 2002). This would help for those situations where the purchase is more complex than buying standardized products, and thus reduces the challenge of using competitive tendering. However, it may not solve the problem totally. As Howden-Chapman and Ashton (2000) points out, the use of mixed methods also tends to increase bureaucracy and put more pressure on the public purchasers knowledge and capabilities, as keeping on the right side of the law when engaging in negotiations is tricky.

Competitive tendering creates other challenges beside the shorter-term perspective. Furlong et. al. (1994) mentions that competitive tendering often comes together with an attempt to utilize volume, thus moving contracts from smaller, local suppliers to larger regional or national suppliers. This, in turn, sometimes creates a conflict with local municipalities’ policy to support local business. While this is not a direct requirement in the public purchasing directive, it follows indirectly from the larger suppliers possibility to capture economies of scale and thus win bids when the public buyer is forced by directives to use competitive tendering; and particularly if price figures prominently in the criteria for the competitive tender. While this can also be seen as a positive effect of the public purchasing directives as it creates larger and more economically viable suppliers and increases efficiency of production and distribution, it is a problem if this collides head on with moving of economic activities from the local geographical region, thus working against support of local business activity.

Public purchasing directives do have mechanisms for a longer-term relationship-based contract. Usually, these contracts are signed in order to support innovation, something which is relevant both in order to create new solutions that are needed in the public market and to support local industry by functioning as a lead user. Most of these contracts are under some sort of public-private partnership/initiative umbrella (Caldwell et. al., 2005; Essig and Batran, 2005; Zheng et. al., 2008; Arlbjørn and Freytag, 2011; Waluszewski and Wagrell, 2014). The two main challenges to these types of contracts are that they are difficult to use and thus requires high level of competence in the public organization (Essig and Batran, 2005; Zheng et. al., 2008) and that they do not last long enough (Waluszewski and Wagrell, 2014) in order for the private investor to be secured a market.

4. A brief summary of the most recent EU public procurement reform

In this section, we briefly describe how the overall EU framework of rules and regulations has changed as a result of the recent reform. Our main source for this section is the official homepage¹ of the EU dedicated to public procurement reform. This section is intendedly descriptive and serves as the input for the discussion section in which we shall analyze the changes in the EU directives in terms of the models by Gadde and Snehota (2000) and Araujo et al. (1999) and vis-à-vis the criticism from relationship researchers presented in section 3. Since the reform is still very fresh, there is no relevant research on effects yet. It takes time before the changes adopted at central EU level have been ratified and implemented in the various member states and other participating countries. Thus, we have mainly used the official EU databases and documents for this part. These official documents describe in rather clear terms how the new procedures are supposed to work.

Principles and procedures related to the EU directives prior to the reform

The basic principles behind the EU directives on public procurement have always centered on the idea of creating open and fair competition among as many suppliers as possible. In particular, in order to stimulate competition, the following principles are typically highlighted (EU document; other references):

1. *Transparency*: the processes leading to the choice of a supplier should be fully transparent. The initial call for bids, the criteria that will be applied in the selection as well as the final choice made, should be published publicly.

¹ http://ec.europa.eu/growth/single-market/public-procurement/modernising-rules/index_en.htm

2. *Equal treatment* of and opportunities for suppliers. All suppliers in the EU market should have a fair chance of acquiring public orders and all suppliers should be treated equally throughout all stages of the purchasing process.

3. *Non-discrimination*: the purchasing needs must be specified in such a way that it does not limit the set of options to single suppliers or seriously hampers the functioning of the supplier markets.

Based on these principles, the main procedures available to purchasers prior to the reform were the following:

1. The *open procedure*: a single stage competitive bidding process, open to all suppliers. Following a publicly announced call for bids, interested suppliers submit bids, which are evaluated on either lowest price or a set of criteria (economically most favorable).

2. The *restricted procedure*: a two-stage bidding process. The first stage is open to all suppliers and invites interested suppliers to submit an expression of interest. Interested suppliers may be evaluated on one or more screening criteria, leading to a smaller set of qualified suppliers that are invited to submit a bid. These bids are then evaluated on either lowest price or a set of multiple criteria (economically most favorable).

3. The *negotiation procedure*: a procedure featuring direct purchasing to be used in exceptional situations where the open or restricted procedures cannot be used, e.g. due to lack of time in case of emergency situations.

4. *Competitive dialogue*: a fourth procedure that more recently was added to the previous three procedures. It recognizes the problem that in certain cases, purchasers cannot describe a clear specification without specific interaction with the supplier market. Following a publicly announced problem statement, interested suppliers may express their interest and at least three should be qualified for the next stage, which consists of parallel dialogues between the purchaser and the qualified suppliers, leading to each supplier suggestion a technical solution. Based on these dialogues, the purchaser decides on a final solution to be used as specification in a final competitive bidding round, open only to the qualified suppliers.

In addition, the EU introduced the option to apply electronic auctions in the competitive bidding rounds in the above procedures, as well as a procedure called “Dynamic purchasing system”, which basically is a variant of the restricted procedure by allowing other suppliers (which not participated in the original qualification round) to apply for qualification later on (at any given time). All procedures are subject to strict time schedules within which the different stages of the purchasing process have to be carried out.

The reasons for the reform and the most important changes

In the official Fact Sheet No. 1 from the EU as available on the EU public procurement homepage, three reasons are given for the reform of the set of procedures as described in the previous section: economic, social and political. Regarding the economic reason, the intention seems to streamline the procedures so as to reduce the transaction costs for both public purchasers and suppliers. The administrative “burden” of the procedures have long been a topic of debate. The difficult economic situation in the EU has likely also been a driver of streamlining the procedures. A reform of the procedures for public procurement should also be seen in the light of public procurement as a policy tool. Policy goals such as creating more jobs, stimulating innovation, reducing social inequality and providing more sustainable solutions are all seen as target areas for better public procurement. Apparently, a reform of the directives and procedures was considered necessary to better achieve these goals.

Fact Sheet No. 1 briefly describes the changes under the reform. Firstly, as mentioned in the previous subsection, the procedures have been simplified and should be easier to implement, e.g. reducing some of the publicity obligations, and allowing the purchasers more freedom and flexibility. Secondly, as also mentioned earlier, the need to address a range of policy goals is more clearly reflected in the new rules and procedures. Environmental and social criteria, for example Life Cycle Cost (LCC) and the possibility to reserve certain contracts for sheltered workshops that employ disadvantaged workers, are examples of this. Thirdly, it will also become easier for SME suppliers to bid for public contracts as one of the typical hurdles for these suppliers, the required turnover criterion, will be relaxed. Other changes are related to preventing corruption and favoritism. However, arguably most relevant for this paper, is the addition of an entirely new procedure, called the “innovation partnership”. Fact Sheet No. 9 at the EU homepage describes this procedure as follows: “A new procedure called the “innovation partnership” will enable public purchasers to select partners on a competitive basis and have them develop an innovative solution tailored to their requirements”. The main steps of this procedure are described as follows (again based on Fact Sheet No. 9):

1. The first stage of the procedure is characterized by competition: the most suitable supplier or suppliers are selected based on a number of relevant criteria (skills, capabilities and price)
2. The suppliers or supplier chosen will then develop the innovative solution together with the purchasing organization. If more than one supplier was chosen, this phase may gradually reduce the number of suppliers if they appear to fail predetermined criteria.
3. In the final stage, a final partner is chosen (from the original set of selected suppliers) who will provide the solution developed.

Fact Sheet No. 9 emphasizes the difference between what is called Pre-commercial procurement (PCP) and the new Innovation partnership procedure. The former is an exemption from the public procurement framework altogether. It is seen as a distinct

“development” activity, part of a research effort, prior to “regular procurement” where the EU procedures for public procurement apply.

Table 4 below sums up this subsection.

<i>Type of procedure / arrangement</i>	<i>Relational, innovation related aspects</i>
Open and restricted procedure. These are the classic bidding procedures, which have been in place since the start of the EU directives.	Purely buyer driven, innovation is expected to happen at the supplier driven by competition.
Competitive dialogue (added later).	For complex purchases “only”, allows for supplier input when developing a purchasing specification. Based on prior innovation at the supplier rather than innovation driven by the purchase.
Innovation partnership (entirely new procedure))	Attempt to include both solution development and purchasing of that solution in one procedure. The buyer and supplier(s) develop potential solutions together.
Pre Commercial Procurement (has existed outside the framework, is not seen as procurement as such).	Not seen as public procurement procedure, but as an arrangement that guides the purchasing of R&D services when developing entirely new solutions, typically as part of large research projects involving several partners and public funding.

Table 4: New and existing procedures for public procurement

5. Discussion: what does the reform imply for traditional criticism from relationship researchers?

In this section we will start preparing the answers to the two questions set out in the introduction section: (1) do the changes in the reform address the critical views from relationship researchers? and (2) is the critical view held by relationship researchers still justified, given the reform? To this end, we shall use theoretical contributions by Gadde and Snehota (2000) and Araujo et al. (1999) that we discussed in section 3.

In terms of the model by Gadde and Snehota (2000), we argue that, traditionally, the EU directives have been most concerned with minimizing relationship costs, and in particular direct procurement costs (DPC), direct transaction costs (DTC) and relationship handling costs (RHC). Attention to, or perhaps even awareness of, possible relationships benefits

seems to have been less pronounced. Conversely, the IMP approach, and relationship researchers more in general, have been more concerned with the relationships benefits side of Gadde and Snehota’s model, implicitly assuming that, in general, cost benefits and revenue benefits will outweigh slightly higher prices (DPC) or that a trade-off between CB and RB on the one hand and DPC on the other hand, need not exist necessarily.

<i>Type of consequence</i>	<i>Traditional EU directives perspective</i>	<i>IMP perspective</i>	<i>Possible contribution of EU reform</i>
DPC	Key objective: procurement costs should be minimized.	DPC and DTC should be seen in relation improvements in CB and/or RB.	Simplification of the procedures is meant to reduce DTC.
DTC			
RHC			
SHC			
CB	Not addressed as prominently, serve as constraints. Innovation is expected to result from competition.	Creating benefits is the main issue: relationships are an “endless” source of opportunities for value creation.	Increased focus on Life Cycle Costing (LCC) as a criterion.
RB			Increased focus on innovation, social and environmental benefits.

Table 5: Analyzing different perspectives on public procurement in terms of Gadde and Snehota’s (2000) model of economic consequences of supplier relationships.

Summarizing, it seems that the reform may lead to bringing the traditional EU directives’ perspective and the IMP perspective somewhat closer to each other, at least when it comes to recognizing the potential of supplier relationships for creating cost benefits and value benefits. The increased focus on LCC in the reform implies a more extensive scope, considering how costs may be reduced throughout the entire life cycle of the product rather only considering its price and the costs of handling the transaction. The explicit focus in the Fact sheet on environmental and social issues and SME involvement also implies a stronger recognition of the “benefits” side of Gadde and Snehota’s model.

Next, we consider the model of buyer-supplier interfaces developed by Araujo et. al. (1999) that we discussed earlier. This model identified four basic types of interfaces, each with different possibilities and requirements for productivity improvements and innovation.

The traditional EU directives perspective has emphasized the use of a standardized or specified interface, especially when using the open or restricted procedure. The latter two procedures are based on specifying a known need or solution and an information flow that goes primarily from buyer to supplier. Relying heavily on standardized and specified interfaces can explain the limited amount of innovation obtained through public procurement following the open or restricted procedure. The implicit assumption that innovative solutions are stimulated by creating competition among suppliers, however, seems difficult to reconcile with what Araujo et al. (1999) predict for this type of purchasing strategy. However, in recent years, initiatives such as the Norwegian program for supplier development (www.leverandorutvikling.no), are aimed at creating arena's and meeting places for dialogue and interaction between suppliers and public purchasers prior to the start of classic open or restricted bidding processes. The interaction serves to increase the purchaser's insight into the possibilities on the supplier market and at the same time, increase the suppliers' insights into customer demand and needs. An important result is that purchasers may be able to write more realistic and "inspiring", innovation-driven specifications. The interface *prior* to the bidding process may thus be labeled as interactive, while the actual bidding process that follows (if the purchaser decides to proceed based on the dialogue with the suppliers) still employs more of a specified or translation interface.

All in all, considering the arrival of competitive dialogue, and even more so, the new procedure innovation partnership, we argue that the potential for innovation through public procurement has increased, as these procedures can be positioned much closer to the translation and interactive interface in Araujo et. al. (1999), see table 6 below.

<i>Procedure</i>	<i>Typical (dominant) interface</i>	<i>Innovation potential – implications of the EU directives' reform</i>
Open, restricted	Standardized, specified (interactive if the tender is preceded by a dialogue process)	The development towards creating dialogue with suppliers <i>prior</i> to an open or restricted tender improves the innovation potential
Negotiation, competitive dialogue	Translation, interactive	The interactive nature of competitive dialogue improves the innovation potential
Innovation partnership	Interactive	The interactive nature of innovation partnership improves the innovation potential

Table 6: Positioning the different EU public procurement procedures against Araujo et. al. (1999)

Although the innovation partnership procedure still starts with a "classic" competitive approach, the "middle section" of the procedure allows for an unrestricted interaction with a few or only one supplier in order to jointly develop an innovative solution. If only one

supplier was chosen for this middle section, this particular supplier will then also be the supplier to actually produce the solution developed.

6. Conclusions and some avenues for future research

In the section, we shall now get back to the two central questions posed in the introduction of the paper.

First, does the reform effectively address the critique put forward by IMP and affiliated researchers? Are we really entering a new era? Our answer is at least partly positive. The room for interaction between suppliers and public buying organizations has arguably become larger. By conceptually analyzing the various existing and future procedures for public procurement in relation to the models developed by Gadde and Snehota (2000) and Araujo et al. (1999), we conclude that the entire set of procedures available to public purchasers offers a larger innovation potential than before the reform. The fundamental reason for this is that using or striving for interactive interfaces with suppliers should be easier to achieve, at least during some part of the procurement process. Especially the innovation partnership procedure should create possibilities for boosting innovation by intensive collaboration and interaction with a limited number or even one supplier over a longer time period. Still, it may require considerable competence development and resources to apply innovation partnership. However, by organizing a dialogue conference (open to all suppliers) prior to open or restricted tender projects, the lack of innovative capacity of these much criticized, classic bidding procedures, may be largely circumvented. Therefore, we argue that none of the EU directives – post reform at least – necessarily rule out or limit interaction with suppliers. Whilst interaction previously – pre reform – may have been considered a “necessary evil” to be used in exceptional cases only, the introduction of the innovation partnership procedure expresses a far more positive view on interaction.

Then the second question: is the critique from IMP and related researchers still relevant? Also to this question our answer is partly “yes”. The reason is simply that despite the new innovation partnership procedure and a stronger focus on interaction with suppliers in general, the EU directives still seem to adhere to the idea that “need” always precedes “relationship”. Building and developing long term relationships with suppliers for the sake of innovation, and considering the value of relationships beyond individual purchases, does not seem to be recognized as a possibility. The fact that pre-commercial procurement is not considered a part of the EU directives confirms this line of thinking. After all, pre-commercial procurement essentially is about buying R&D activities from a supplier without knowing what the solution to (poorly defined) problem could be. So, although the post reform EU directives offer ample room for interaction with suppliers, they still imply that the relationship with the supplier is terminated when the delivery has taken place and the contract has expired. In terms of Gadde and Snehota (2000) one could say, the EU directives

allow both low and high involvement relationships with suppliers, but the time horizon will always be relatively short.

Several challenges remain to be dealt with and not at in the least researched!

The fundamental principle of competition is still at the basis of all procedures and one interesting research question is how this will impact the results achieved by increased interaction in later stages of the purchasing process. In this perspective, Zheng et. al. and their research about the dynamics of relational and contractual governance in longer-term public contracts is a fruitful line for further research.

Also, as we know from IMP research in the private sector, interacting and building relationships requires effort and investment. The question is therefore, how realistic will it be for public purchasers to use for example the innovation partnership procedure. Also, as typically pointed out in manuals explaining the EU framework for public procurement, the negotiation and competitive bidding procedures should be seen as “exceptional” procedures, only to be used when the open or restricted procedure not will work. This raises an interesting additional question of at which level relationship based innovation should be “tried out”. Finding appropriate structures for organizing and coordinating innovation through public procurement is therefore an important research theme. The required competence level for public purchasers to carry out the more complicated procedures is also a challenge here, particularly for smaller governmental units, like municipalities where they may not even have a dedicated purchaser, but where other staff do purchasing on a part-time basis.

Thirdly, and fundamentally, what kind of buyer supplier relationship will evolve from a series of episodes where the supplier sometimes is an active supplier (“contract winner”) and sometimes is related to the public purchaser in a less “active” setting. Not being an active supplier does not necessarily mean that the relationship is fully “broken”. We need to investigate how specific buyer supplier relationships develop over time, following a trail consisting of active and less active episodes.

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APPENDIX 1: Overview of empirically based articles and the challenges they raise to public purchasing

Article	Empirical research	Challenges to public purchasing regulations
Arlbjørn and Freytag (2011)	Two cases of public procurement, one deemed “typical”, where a “simple” product was bought, and another deemed “unique” where a complex product was bought using PPI (public-private initiatives) procedures	<ul style="list-style-type: none"> - “Simple” public purchasing was performed using traditional competitive tendering. This may work well if the product is simple and easy to describe by the buyer before the selection of supplier, but this will not work on complex products - Traditional competitive tendering does not create innovation, but other modes of purchasing allowed to public purchasers, such as PPI, may - Dividing the innovation part from the buying part and have each phase set up as competitive tendering may work in some cases
Caldwell et. al. (2005)	Study of three cases of how public purchasing is able to help in creating “competitive markets”	<ul style="list-style-type: none"> - PPPs are seen as effective in creating relationships between public sector and an organization (Jarvis case) - A challenge is for public organizations to offer consistent work to suppliers, which is necessary for the supplier to invest in knowledge and expertise - A national database for supplier performance may help drive out poor performance, thus raising the standards of a market - Tensions arose between local, short-term contracting decisions and what makes sense in the longer-term at the sector level (Prosthetics case) - The net effect of “good practice” on a national level was to jeopardise the long-term viability of suppliers and thus the competitiveness of the supply market (Prosthetics case)
Erridge and Nondi (1994)	A survey of public procurement in Northern Ireland. Mainly to public purchasers purchasing goods (not services). 11 respondents out of 37 questionnaires	<ul style="list-style-type: none"> - Seven characteristics were checked, for most characteristic a mixed approach had been chosen, meaning both competitive tendering and negotiations, usually in sequence with competitive tendering first, and then negotiation with the remaining suppliers

		<ul style="list-style-type: none"> - Tendering were used extensively, either alone or mixed with negotiations, but was found not necessarily to lead to lowest price - Quality and other criteria often lose to price in public procurement procedures - Researchers recommend not to be too extreme in choosing competition or negotiation, but to establish mixed methods
Essig and Batran (2005)	A single case of a PPP (Public Private Partnership) was investigated, with a focus on the public buyers perception upon a self-selected private supplier.	<ul style="list-style-type: none"> - Difficult to provide legal arguments for the outsourcing decision of IT services to the private partner - Complicated procedures for tendering process, several conflicts escalated to top management - Transfer of IT personnel from buyer to seller created procedural and legal problems related to their status (Work protection) - A series of short-term contracts (3+3+5) has created problems when a termination has arrived - Competitive dialogue may be used more in the future, bringing public purchasing closer to more traditional supply chain management
Furlong, Lamont and Cox (1994)	Study of 700 SMEs in the Humber Valley, UK and the impact of EU rules on their business with public organizations	<ul style="list-style-type: none"> - Public organizations has, to a much larger degree than private, changed away from relationship towards competitive price as basis for purchases - Public purchasers tend to reduce buying from SME's and increase buying from large companies, partly due to consolidation of purchases across larger units
Heijboer and Telgen (2002)	Study of the use of open or restricted procedures in EU procurement across different EU countries	<ul style="list-style-type: none"> - Use of open and restricted procedures varies between countries as well as within countries for varied purposes - One would expect more purposeful use of the two procedures and more similar patterns across countries
Howden-Chapman and Ashton (2000)	The health system of New Zealand used as examples throughout the analysis.	<ul style="list-style-type: none"> - Competitive contracting has been seen as a central part of the system,

	Health system restructured 1993 to allow public contracting of health services from private suppliers	<p>but evidence of expected efficiency improvement is patchy at best</p> <ul style="list-style-type: none"> - Expected increase in competition as private service providers enters the new market has not happened, except at the margin - Co-ordination between providers is more difficult, and private providers do not want to take co-ordination tasks onto themselves, making the co-ordination fall on public hospitals for the complicated cases where patients have many different treatment needs - Need for contracting between public and private providers have increased transaction costs, putting as pressure on public financing - Conflict of interest has occurred where private doctors also has part-time jobs in the public system - Innovation has improved in some settings due to private companies with new products or services
Lian & Laing (2004)	Comparison of the way in which public and private organizations perform purchasing of complex business services in the health sector	<ul style="list-style-type: none"> - Public companies (due to the regulations) rely exclusively on transactional approaches to purchasing
Loader (2015)	Content analysis of UK governmental online feedback facility for reactions on public procurement procedures – particularly focusing on the situation for SME's	<ul style="list-style-type: none"> - Procedures experienced as too focused on detailed specifications - Public procurement staff not sufficiently professional in handling the rules - Prescriptive requirements are too large compared to value and length of contract, making it too demanding on small resources in SME's to hand in a bid
Steffens & Matthews (2004)	Study of the network structure around a public sector R&D agency as Purchaser-provider relationships are introduced	<ul style="list-style-type: none"> - New purchaser-provider relationships crosses former resource ties, activity links and actor bonds - New ways of constructing costs and understandings of costs challenges the way in which people work together

Waluszewski & Wagrell (2014)	Investigate the introduction of a non-surgical procedure to reduce prostate size	<ul style="list-style-type: none"> - The main philosophy behind the regulations aligns with traditional free—market philosophy - The way in which costs are perceived and computed has an impact on the process - The requirement of competitive tender comes too early after development. Product/process is not yet established
Zheng et. al. (2008)	Use of contractual and relational governance in public-private procurement arrangements in PFIs (Private Finance Initiatives) in the UK	<ul style="list-style-type: none"> - Even under strong, contractual approaches, relational governance has been used in public-private procurement arrangements - A high level of competence need to exist in the public organization in order to procure and monitor such complicated contracts as PFIs