Commissioning of public services: cooperation and strategic approaches

Andrea Migone
Institute of Public Administration of Canada, Toronto, Canada

ABSTRACT
Because of increasing complexity and pressure on services, from both financial and delivery perspectives, public administrators increasingly explore new public-private service delivery approaches. This article undertakes a review of the commissioning literature and compares the approach with traditional procurement. It is argued that commissioning goes beyond traditional procurement and outsourcing agendas by prioritizing on cooperation and strategic outcome enablement, two forces that shape both service delivery on one side and procurement on the other.

1. Commissioning: between procurement and service delivery

Public administrations operate in an increasingly complex and interconnected space where fiscal constraints and increased demands from citizens for core services have become entrenched operational factors. This triggered a search for innovation in contracting (Greve 2008) leading to the emergence of multiple concepts and instruments, with not clearly defined and sometimes overlapping boundaries, which further complicates the discussion introducing approaches like corporate social responsibility (Flammer 2018), or social procurement (Dragicevic and Ditta 2016), and tools like social impact bonds (Fraser et al 2018). Among these instruments is commissioning (Sturgess et al 2011; Rees 2014; Wear 2015; Leitch et al 2016; Sturgess 2018), which straddles the public sector economy (OCC 2014) and the mixed economy of public services (Dominey 2012; Murray 2011) realms.

For practitioners and scholars alike commissioning provides a complex challenge. Because it sits at the interface of policy and service delivery, it forces those who implement it to work out the appropriate division of responsibilities and roles that are required to deliver the desired government priorities and outcomes. Furthermore, while commissioning fits within the contracting space, it is not simply procurement. Hence, multiple definitions of commissioning are extant (Woodin 2006; Wade et al...
2006), to the point that Rees (2014: 50) suggests that it “may be useful to view commissioning as operating on a continuum – between ‘intelligent/collaborative’ commissioning on one side and ‘commissioning on price/procurement’ on the other.” This definitional fluidity has led some commentators to suggest that commissioning is more of an art than a science (Shaw 2013; Wye et al 2015).

To attempt to unravel some of these complexities, this article will provide a review of the recent literature on commissioning to achieve a better theoretical and conceptual understanding of it. The article further compares commissioning to classic procurement and outsourcing and argues that the former differs from the latter not only because of its more diverse and multifaceted nature (Packwood 2007; Tanner 2007; Macmillan 2010; Martikke and Moxham 2010; Sturgess 2018) or because of its more strategic orientation (Sturgess 2018).

More critically, commissioning embodies both a more strategic vision of service delivery, which is operationalized as a strategic enablement of outcomes (Dutil and Migone 2018), and is more cooperative.

A change in the logic associated with policy tools in general and procurement ones, in particular, is not unique to commissioning. Over the last three decades, we can see a focus on cooperation in the increased use of approaches that include or focus on connections among stakeholders, users, providers and the public administration in co-design, co-development, and engagement. As palpable if more recent is the emergence of outcome-based (World Bank Group 2016) and strategic approaches (McCrudden 2007a; 2007b). Outside of the scope of this article, but still critical, are questions regarding the value-for-money of contracting (Riddell 2007; ANAO 2001; Rapoport 2018) and the use of procurement to promote the growth of Small and Medium Enterprises (SME) (Loader 2015; Liao et al 2017; OECD 2017) or innovation (Uyarra et al 2014; Nouttilla et al 2016), all of which speak of a more nuanced and complex understanding of contracting.

This article will focus on the dual emergence of more strategic and cooperative approaches to contracting by the public administration. We argue that this emergence depends on various “deeper” shifts in this area. On the one hand, the field has become less consistent and standardized, showing increased hybrid relations and structures among actors (Butcher, Freyens, and Wanna 2009). At the same time concepts like consultocracy and the service, franchise, or competition state (Saint-Martin 1998; 2005; Radcliffe 2010; Bilodeau, Laurin, and Vining, 2006) bridge two temporal phases in restructuring government contracting. The first is the success of New Public Management (NPM) in including independent non-state actors (Klijn 2012) in this area, which has shifted their roles within the policy advisory system (Parsons 2004; Howlett and Migone 2017; Craft and Halligan 2017; Fraussen and Halpin, 2017) and it is followed by post-NPM approaches that demand more cooperation among providers (Bouckaert, Peters, and Verhoest 2010; Sanderson et al 2017). Given the practical and theoretical complexities associated with commissioning it may be more useful to think of it as an evolving policy approach that is connected to the division that exists within New Public Management between purchaser and provider in the service delivery mechanism (Rees 2014) but that, as conditions evolve, is also subject to its own strategic realignments (Bovaird and Davies 2011), while showing
substantial diversity in how it is understood and applied (Bovaird, Dickinson, and Allen 2012; Bovaird, Briggs, and Willis 2014). Since the late 1980s, we can see a progressive (and complex) process of differentiation between classic procurement and strategic commissioning (Bovaird 2016), which represents a much broader, dynamic and involved approach (White 2011), tends to favor outcomes over outputs, and is often seen more as an art than a mechanical approach to tendering and outsourcing (Shaw 2013).

While the previous literature provides important knowledge about the nature of individual procurement tools, it is less useful when we try to compare what are very dissimilar instances. However, if we analyze the various contracting approaches along the dimension of strategic enablement of outcomes and the level of cooperation they foster, we can arrange them on a continuum that allows for such a comparison.

These approaches are not monolithic: for example, social procurement can include social impact bonds but also green contracting practices and Corporate Social Responsibility hence we represent them as areas as opposed to punctuated elements in the contracting space.

The article is organized into three sections. Below we discuss in further detail the role of cooperation and outcome orientation for commissioning and finally, some conclusions are offered.

2. Cooperation and outcome orientation in commissioning

Whereas, in some areas commissioning has become an important part of how services are delivered this is not (and it is unlikely to become) the norm across the spectrum of service delivery. When poorly implemented commissioning can become inflexible and over-departmentalized, privileging short-term cost efficiency over strategic approaches (Slay and Penny 2014: 11). However, appropriately executed, commissioning has an enormous strategic potential to cooperatively deliver high-quality services, which engage stakeholders and communities, express better value-for-money, and ultimately are more effective (Figure 1).

To achieve this commissioning must embody a more strategic and dynamic approach to public service design and delivery clearly focused on aligning resources to desired outcomes, and on injecting greater diversity and cooperation into the public service economy.

We should note that the actual commissioning process is somewhat less neat than most of the models used to describe it (Miller and Rees 2014). In commissioning the role of governments remain central as they still need to set priorities, are held accountable by citizens and stakeholders for the performance and the effectiveness of the services, and must foster a change in how commissioned services are provided. Sturgess (2018) argues that public service commissioning emerged because of three shortcomings that affect traditional procurement (Tables 1 and 2):

1. the limited capacity of command and control tools in effectively engaging the providers of public services;
2. the deeply underdeveloped nature of delivery systems that service users could access easily;
3. an immature entrustment relationship between policymakers and the managers of frontline services.

The principles and tools commissioning uses to shape the choice of how to deliver services – like alliance contracting, prime provider contracting and outcome-based contracting – speak to the increased complexity of the field and to its focus on improving communication and cooperation among stakeholders (Sanderson et al 2017). These are:

- diversity in public service delivery fosters innovation and generates better value;
- a mixed economy is an environment in which complex public services are delivered by a mix of private, public and not for profit organizations (Addicott 2014);
- market stewardship is a requirement for a mixed economy if we wish to deliver both value and the desired outcomes while controlling excessive market fragmentation (NHS England 2014);

![Figure 1. Strategic and cooperative orientation of select contracting approaches.](image-url)
contestability (the credible threat to a provider that it will be replaced if they are failing to deliver the service) should be encouraged among other things because competition and choice can be important mechanisms to foster change using limited government intervention.

Commissioning yields its best results if certain parameters are respected. It is best suited to policy areas where “the links between inputs, outputs and outcomes are reasonably straightforward and uncontroversial, or where one or two simple outcomes can be agreed on as fulfilling policy objectives” (Schwartzkoff and Sturgess 2015: iii). Its success is intimately linked to establishing appropriate outcomes’ measurement methodologies and monitoring (Selviaridis and Normman 2014), which must be iteratively maintained (Gelderman, Semeijn, and De Bruijin 2015), and must be flexible enough to change as the conditions surrounding that service change (Hudson et al 2010; Figueras, Robinson, and Jakubowski 2005; Arthur and Kennedy 2014). This is not a trivial process given that measurement, even of benefits, remains surprisingly sparse for outcome-oriented contracting (Buchanan and Klinger 2007; Sanderson et al 2017) both in specific sectors like defense (Caldwell and Howard 2007) or generally (Love, Mistry, and Davis 2010). It remains difficult to even measure broad outcomes like achieving better risk management (Matthews and Parker 1999).

Following Sturgess (2018) commissioning is possibly best described as a family of approaches that rose to prominence since the 1980s mostly within Anglo-Saxon public administrations and that share four main characteristics:

- the recognition that public service delivery generates very significant mixed markets, which require significant stewardship;
- the recognition that engagement with delivery agents and stakeholders is fundamental to achieve success in service delivery;
- the recognition that the process of entrustment needs to be developed;
- the recognition that decisions regarding service delivery should be taken in a way to align authority and accountability. This means they should take place at the level where resource allocation and delivery of results can be best managed.

By introducing greater competition and diversity into the design and delivery of public services (Sturgess 2015) commissioning has created more latitude for partnerships with the private and not-for-profit sectors (Sturgess et al 2011), it has opened

| Table 1. Differences between procurement and commissioning. |
|---------------------------------------------------------------|
| **Framing Principle** | Assessing public needs and outcomes precedes the decisions of what is to be purchased and how | Maximizing value-for-money and efficiency |
| **Focus** | Outcomes Focus | Process/Input Focus |
| **Main dynamic among actors** | Active Engagement | Traditional commercial relationships |
| **Competition dynamic** | Contestability | Limited to no competition once contract is awarded |
| **Contracting scope** | Collaboration-based and flexible | Transaction-based and rigid |
| **Government role** | Stewarding public service markets | Monitoring contract implementation |
relevant spaces for engagement with service users where improvements to their practice can be implemented (Hudson 2015; Petsoulas et al 2015; O’Shea, Chambers, and Boaz 2017).

It is useful to think about these principles in terms of practical examples. The Australian National Disability Insurance Scheme (NDIS) provides a good example of how in commissioning outcome orientation, cooperation and market stewardship are utilized to reform traditional approaches. In the early 2010s, the NDIS, which is one of the most significant human services programs in the country both in terms of reach and expenditures, came under considerable scrutiny in terms of the results that it delivered, the costs associated to it and the role of both clients and stakeholders. In particular, the way in which the service was structured meant that Australian governments by providing block funding for suppliers of services, providing services directly and regulating the system was a major player in the system. However, various issues were present. On the one hand, services were not really tailored to the needs of the disabled community. In fact, suppliers had relatively little incentive to revise their approach since they often saw governments as “clients” rather than the people being provided the services. On the other hands, quality control for those services was highly fragmented across the various states and territories and when government intervened it did so using heavy-handed regulatory approaches that tended to reflect a worst-case scenario. The sector showed little market stewardship and low levels of trust, cooperation, and strategic outcome enablement was present.

The NDIS reforms set out to tackle all of these shortcomings, starting from placing people with disabilities at the center of the choice process and by developing a broad engagement process with them, which included the process of co-design. A concurrent step addressed the nature of the public service market in this sector. In particular, the

| Domain                          | Main description                                                                                                                                                                                                 | Standards                                                                                       |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Person-centered and outcomes-focused | This domain covers the quality of experience of people who use social care services, their families and carers, and local communities. It considers the outcome of social care at both an individual and population level. | Person-centred and focuses on outcomes. Promotes health and wellbeing. Delivers social value. |
| Inclusive                       | This domain covers the inclusivity of commissioning, both in terms of the process and outcomes.                                                                                                                  | Coproduced with local people, their careers and communities. Positive engagement with providers. |
| Well led                        | This domain covers how well led commissioning is by the local authority, including how commissioning of social care is supported by both the wider organization and partner organizations.                                | Well led. A whole system approach. Uses evidence about what Works.                              |
| Promotes a sustainable and diverse marketplace | This domain covers the promotion of a vibrant, diverse and sustainable market, where improving quality and safety is integral to commissioning decisions.                                                        | A diverse and sustainable Market. Provides value for money. Develops the workforce.             |

Source: Dickinson 2015: 17.
latter step addressed the maturity of the market and the quality of service supply. This had various dimension: on the one hand, it pushed for the suppliers to listen more closely to the needs of clients. This was achieved in part by shifting from the provision of services to the disabled community to providing them with the ability to choose their own provider. This triggered both competition in the market and the development of networks in the community that shared information about which providers provided better services. Important trust bonds were developed in this fashion that was supplemented by the emergence of a more strategic approach to service design and delivery. This included the creation of effective engagement strategies with all actors. As a result, the suppliers of services had to shift their own focus – this led to a more sustainable public service market where more innovative and diverse suppliers are now the norm.

Having moved to an insurance model, with a minimum intervention approach, the Australian NDIS has positively affected many of the outcomes attached to the program. A recent review of the program completed by the National Institute of Labour Studies noted that the fundamental of the program design and implementation were sound and that the NDIS is delivering the outcomes for which it was designed even if improvements could be achieved in both how fast the outcomes are achieved and in how person-centered some of the program design is (Mavromaras et al 2018). For example, while generally the level and quality of services received by people with disabilities has improved that is not always true for people who are unable to advocate for themselves. Demand for services has also grown faster than the growth in supply.

In terms of the ability of disabled people to choose the services that best reflect their needs the report notes “improved satisfaction with choice and control – both over what supports are received and where these are obtained – for the majority of participants” (Mavromaras et al 2018: xvi).

3. Conclusions

Above we noted that commissioning exhibits two distinctive characteristics with respect to many other approaches that fall in the area of contracting: it is more cooperative and it is strategically oriented. It is worthwhile highlighting some of these processes.

On the cooperative side, commissioning refocuses the traditional service delivery approach towards a client-centered and outcome-oriented method, where contestability of services, competition among stakeholders and a broader engagement among all actors is developed. Critical to this relationship is developing high levels of trust among stakeholders. This trust will affect the flow of information and help in the creation of a contestable environment where multiple parties can move away from hindrances to outcome-based approaches, such as overly legalistic contracts, while enabling the devolution of meaningful autonomy to those who are ultimately accountable and responsible for the delivery of services.

While generally, we find more cooperation (Allen 2017) there are examples, like the not for profit, where increased competitiveness at times has been linked to decreased cooperation among the providers (Buckingham 2009; Mills, Meek, and Gojkovic 2011). However, it is unclear whether these shifts were simply the result of
commissioning or should be fitted within the broader trend towards fewer grants and more outsourcing that has also pushed competition levels further up independently of the type of service delivery approach that was chosen. In this sense, success will hinge not only on the existence of engagement but also on whether the broader context supports this approach.

Connected to the cooperative nature of commissioning but reflecting the strategic enablement approach are the trust and skills embedded in effective commissioning teams is the role of these teams to be both the guardians of good practice and enablers of positive disruptive practices so that a significant change to the status quo can be achieved (Allen and Wade 2014).

The “strategic bias” of commissioning may be built into the approach. Commissioning is not a stand-alone policy but the result of an evolution in service delivery approaches. As such it is dynamic and interconnected to both internal and external dynamics. This means that it will require careful attention both in the “set up” phase and during the service delivery phase where careful measurement, the considerate application of incentives, and maintaining effective accountability chains.

Hence, the strategic potential of commissioning as an alternative to classic outsourcing and procurement processes and as a tool for innovative public service delivery can be very high. However, this means that there are some very important caveats to be considered because of this strategic nature. For example, value-based decisions will often need to be taken alongside technical ones, which makes for a more complex process and requires the commitment of appropriate resources and precise outcome measurements. This, in turn, requires skilled teams implementing commissioning.

When all of these requirements and characteristics are summed up, it is not surprising that commissioning is more often considered an art than a science. However, commissioning remains an extremely interesting option for public policy makers to improve the quality of service design and delivery if it is approached in the correct way.

Notes

1. Dutil and Migone (2018) note how this definition was provided to them during an interview by a Director in the Ontario Public Service’s Ministry of Government and Consumer Services.
2. Statistics Canada defines an SME as any business establishment having between 0 to 499 employees and less than $50 million in gross revenues.

ORCID

Andrea Migone http://orcid.org/0000-0001-8521-5024

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