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The Regulated Competition Model and Public Leadership Strategies

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ABSTRACT

A current public service delivery model is “a regulated competition model”. The background is the increased global service quality benchmarking. The regulated competition model is one where service providers - local governments and private providers, and public providers themselves - compete against each other. Competition is regulated by a combination of old and new national and international regulators. Regulators have flourished as witnessed by the emergence of the “regulatory state”. The development is seen in a historical institutional perspective; how competition and regulation develops over time. Institutions cannot be expected to be in synch. The possibilities for public leadership strategies in the light of these changes are then discussed. Four potential strategies are outlined. The argument is illustrated with examples from the Danish public sector. The theoretical framework consists of theories of market institutions, regulation theory, historical institutional theories of institutional change and theories of strategic responses to institutionalized processes.

INTRODUCTION

This paper argues that one way of describing the current changes in public service delivery systems is a combination of a “competition” and “regulation” that results in a “regulated competition model” (RCM), and that this model poses new challenges for public leadership strategies (PLS). The regulated competition model can be characterized as a hybrid form of governance in the literature on public management reform (Hood 1998; Newman 2001). *Competition* and construction of markets are supposed to be a prolific form of governance. But competition is highly *regulated* through a variety of regulatory tools used by a number of national and international regulators (Braithwaite 2006; Christensen & Læg Reid 2006; Fligstein 2001). In an institutional theory perspective the regulated competition model consists of a set of formal and informal rules that constrain and enable strategic action, and these rules develop over time which means that they are not always in synch with each other or prescribing a exact set of actions (Pierson 2004; Streeck & Thelen 2005). A focussed definition in this tradition views institutions as “formalized rules that may be enforced by calling upon a third party” (Streeck & Thelen 2005: 10). The background features of this development are increased institutionalized competition between states to position themselves in the global economy, the diffusion of public management reform models and ideas, and the globalization of markets for public service delivery and the increased focus on performance reported in global benchmarking exercises (Campbell, Hall & Pedersen, eds. 2006; Kettl 2000; Pollitt & Bouckaert 2004; Sahlin-Andersson 2001; Roberts 2004; Radin 2006).

The paper then goes one step further to ask what a regulated competition model, and the global pressures for such a model, means for strategic action in the public sector? Strategic action by public leaders has been gaining attention in recent public management research (Moore 1995; Joyce

1999; Jarzabkowski 2005). The argument in this paper is that *public leadership strategies (PLS)* – strategies by the leaders of individual public service delivery organizations – have to view the opportunities for action in light of the type of formal and informal rules that the regulated competition model brings with it. Public service organizations and public leaders have at least four different ways to respond to the pressure (Oliver 1991). The strategies are conditioned on a) whether they accept or do not accept the rules of the game, and b) if they adopt a pro-active or a reactive strategy. One strategy is “manipulate” (co-opt, influence, control), a second strategy is “defy” (dismiss, challenge, attack). A third strategy is to “avoid” (conceal, buffer, escape). A fourth strategy is “acquiesce” (habit, imitate, comply). It is an empirical question which strategy a public service organization or a public leader will enact in the context of the regulated competition model.

The argument is illustrated by examples from public service delivery in Denmark. Denmark is a country with 5, 3 million inhabitants and a member of the European Union. Denmark has gone through a series of public management reforms, and has recently experienced a heightened reform pulse.

GLOBAL PUBLIC MANAGEMENT REFORMS AND REGULATED COMPETITION

In addition to the general New Public Management (NPM) and governance debate, there seems to emerge a number of issues that appear to have an influence on the conditions for a regulated competition model: The increased competition between states in the global economy, the speed public management ideas travel globally, the globalized markets for public services and the focus on performance rankings in global benchmarking exercises. Each of them will be explored below briefly.

First, the speed public management ideas travel has increased in recent years. Sahlin-Andersson (2001) pointed to the role of international public management policy construction processes . Barzelay (2001) has shown how “NPM benchmark countries” formed a model that other countries can be measured up against. Recent research has shown how carriers of knowledge such a global consultancy firms spread information and knowledge on public management ideas (Hodge & Bowman 2006). The growth of the internet and access to websites with knowledge on has helped of course. And international organizations such as OECD (2005) or the World Bank spread information about how countries can organize their public services. Arguably, there is today an agenda on “global public management reform” (Kettl 2000) that all countries have to relate to.

Second, recent research in political economy shows that countries are using their institutional configurations of their states in their efforts to compete for advance positions in the global economy (Campbell, Hall & Pedersen eds. 2006). For a while, it was believed the dominant societal model in the future would be a liberal market economy and a deregulated neo-liberal state. Research findings in sociology had already argued for different systems of welfare capitalism. In political economy these were taken up in the varieties of capitalism-debate which differed between liberal market economies (LMEs) and co-ordinated market economies (CMEs), followed by point that no one economy could necessarily outperform the other. There are several ways to adapt to the dynamics of the global economy, and the Scandinavian countries have showed high growth rates despite being cast as traditional high-taxing welfare states (Globaliseringsrådet 2006). A similar discussion has been going on in the literature on public management reform. “The transformative perspective” and the debate on “divergence versus convergence” have also been present for some time (Christensen & Læg Reid eds. 2001; Pollitt & Bouckaert 2004). It has been recognized that countries develop their

public management reforms, and the combination of governing principles, according to their own history and their institutional legacy (Kettl 2002; Lynn 2006). OECD has recently recognized that governments must adapt to a changing world by looking to their own historic record and tradition in modernizing their public sectors (OECD 2005). Can a country change once it is locked into a path? We will return more to this discussion below. In the context of the regulated competition model, this means that any public management model must be seen in the context of a country's wider strategy to adapt to new global economic conditions. The organization of public service delivery cannot be seen in isolation, but must be seen as one of the ways countries prepare for institutional competition.

Third, the focus on performance appears to have outgrown its original NPM roots to be a global preoccupation for governments and public service organizations (OECD 2005: chapter 2). These are often presented as benchmarking exercises and "the performance movement" continues to develop. The performance movement has sparked off critical investigations and reflections in the research community (De Bruijn 2002; Radin 2006), but performance and focus on output and outcomes remains a priority for governments. Benchmarking of performance often results in (global) rankings where countries, organizations, services find their performances ranked against their competitors. The performance movement exerts pressure in individual countries, and helps prepare the way for a regulated competition model which we turn to now.

Combined, these elements exert pressure on the state and make room for a regulated competition model, and we now turn to that model in more detail.

THE REGULATED COMPETITION MODEL

Instead of seeing the changes as *moves* from managerialism and marketization to principles of inter-organizational networks, or from government to governance, scholars have increasingly focussed on how organizations *mix* different governance principles. Hierarchical governance, managerialism, markets and inter-organizational networks, and self-governance practices in local democracy (user-oriented, community-based, deliberate democracy) may exist in some combination (Hood 1998; Newman 2001). Therefore, it is the *combination of governance principles* that is interesting to examine.

The regulated competition model is a combination of the forces of NPM – markets and managerialism - , and the reintroduction of hierarchy and regulatory reform. There has been much discussion of which direction public management reform is taking. All over the world, governments experimented with NPM reforms, and have sought to marketize and use managerial tools to make their public services more effective, efficient and economic (Barzelay 2001; Pollitt & Bouckaert 2004). NPM has been described as a formula of “disaggregation + competition + incentivization” (Pollitt 2003; Dunleavy et.al. 2006). The NPM literature had a weakness though in that NPM was often described a trend, a movement or a policy, but seldom described explicitly by its specific model of governance. Later research efforts disclosed that organizations were not outside the reach of regulators. Research findings confirmed that a number of regulatory tools and techniques in the forms of evaluation, control and auditing followed in the wake of NPM, and that these tools were applicable for marketized services as well as services delivered by government organizations. Acknowledgement of the regulatory aspect, and focus on the relationship between organizational autonomy and regulatory practice, (Chrisensen & Lægreid eds. 2006) is variously labelled

“regulation inside government” (Hood, James & Scott 2000; Hood, James, Peters & Scott 2004), the regulatory state (Braithwaite 2006; Jordana & Levi-Faur eds 2004), regulatory reform (OECD 2000) or, most recently, varieties of regulatory capitalism (Levi-Faur 2006). Today it therefore seems hard to escape the description of the recent public management reforms through elements of markets, management *and* regulation. Hood (1998: 239-240) refers to this combination as the “competition-oversight” hybrid of control in public management.

Public service delivery takes place in an institutional context. There are rules that guide competition and rules that stipulate the regulatory consequences of an undesired behaviour. Rules are both formal rules and informal rules that constrain and enable human action according to standard conceptions of what institutions are (North 1991; Scott 1995; Campbell 2004). Historical-institutional perspective aims to understand the background and the development of rules (Pierson 2004). For the purposes of this paper we will stick to a focussed definition in this tradition and view institutions as “formalized rules that may be enforced by calling upon a third party” (Streeck & Thelen 2005: 10). The advantage of this definition is that it allows a distinction between actors that set the rules, actors that act in relation to the rules, and actors that enforce the rules. The regulated competition model focuses on three kinds of actors: Those actors that set the performance standards for the quality of public services. In accordance with recent insights from historical institutional theory (Streeck and Thelen 2005: 13) these are called *rule makers*. Rule makers make clear what level of service they want to see provided. Rule makers can be seen as principals or as smart buyers in Kettl’s (1993) terms, and as legislators and governments making the laws and the policies. The second types of actors are those actors that lead and manage within institutional

constraints. They are termed *rule takers*. Those actors that regulate the activities of the rule takers on behalf of the rules makers are here termed *rule enforcers* or the regulatory bodies.

Setting performance targets and stipulating rules for competition

The first part of the model has to do with what kind of performance should be strived for and the conditions under which the performance targets are set. The rule makers are those that set the performance targets for what should be achieved, and also those who frame the institutional conditions for the way the competitive process should be governed. In recent years this role has become both more important and more professionalized. Governments are putting emphasis and resources into performance management tools and capacities. “The smart buyer” idea that Kettl (1993) launched as gained more flesh as “strategic contracting management” has become new competence that public leaders must learn (Kelman 2002).

Competition

The second part of the model is concerned with *competition*. The basic parts of the model include various tools such as choice, competition between entities, individualism and rivalry (Hood 1998).

The basic idea is that competition keeps public service organizations awake (Peters 1996). It is a way of organizing which rests on markets and market-type mechanism. The ingredients for a competition-led public service delivery system includes

Quasi-markets: Markets for public services seldom function the way markets in perfect competition function. The most appropriate way to characterize the market mechanisms are as quasi-markets (LeGrand and Bartlett 1993). A number of factors influence why markets for public services are not perfect that include both supply-side imperfections and demand-side imperfections (Kettl 1993: 31-35).

If there is not competition, a competitive environment can be constructed. To build a market is a political process. As most governments and scholars have recognized, markets cannot stand alone. Competition is always institutionalized (Fligstein 2001). Market building is institutionalization process that must address property rights, governance structures, exchange rights, and conceptions of control (Fligstein 2001: 32). Dominant market players (“incumbents”) are challenged by emerging firms (“challengers”), and analyzing that game is an important aspect in understanding the competitive process. The aim is to make a level playing field where both public and private providers compete.

Competition not only means competition between public and private providers. Public providers’ performances are increasingly being measured up against each other in benchmarking exercises. The result is that public service providers now find themselves and their performances in all kinds of ranking lists. The performance is being measured up against performances in other parts of the country, in other parts of Europe, and increasingly in other parts of the world.

Globalization of public service delivery systems: Organizations are looking across borders to provide public services in other countries than their homeland. Recently, a part of the administration of the East Riding local government in the UK was taken over by a German daughter-company of

the Bertelsmann business empire in Germany (Der Spiegel nr. 34, 2006). Researchers have called this global public service production (Dunleavy 1996). The rising phenomenon of global providers has been described as “transborder network service delivery systems” (Roberts 2004). Companies are preparing more standardized services that can be delivered in many geographical locations. Public service delivery organizations are therefore not confined to specific and localized “markets”, but try to sell their goods and services where they can. The global service providers develop concepts that travel easily and if they are allowed into national markets, they can benefit from productions of scale. The global company Group4Securicor has been mentioned as one example of this. Other types of companies include “facility management services”, and here companies that act as sub-providers in public-private partnerships in Britain may serve as examples. Consultancy firms are also examples of global service providers that collect and disseminate knowledge on good public management practices.

Customers: A third element in the regulated competition model is customer orientation. It is supposed that citizens can make distinctions between roles as citizens, voters, users and customers. Citizens are being given a “free choice”, they are issued with vouchers, and encouraged to “vote with their feet” and choose alternative service providers. Customers need service information. Customers are supposed to be rational actors at the outset who are capable of understand the information in the marketplace. Governments can try to empower citizens to act as customers in public services.

Customer orientation has only recently begun to achieve serious scholarly attention in the literature on public management (Fountain 2001; Aberbach & Christensen 2005). The “customerization” of the public service is partly encouraged by governments to put pressure on public service providers

“from below”. The implications of customer-orientation are not thought through in public service delivery (Fountain 2001). For example, can public service providers differentiate between customers? Can providers defy “unsuitable” customers”? Can providers reward “loyal” customers (like the airlines’ bonus systems)? Can providers customize their services to a particular “customer segment”? A recent empirical investigation in the UK found that despite much talk on customers’ rights and customer focus, people still felt a difference between using a public service and private consume: “It’s not like shopping”, was one comment that the research project reported as a general statement from the empirical investigations (Clarke & Newman 2006).

Regulation

The fourth part of the regulated competition model concerns regulation. Rules and regulations can take many shapes. We heard about regulation as rule-making above. Regulation can be thought of as a) Regulation as a specific form of governance: A set of authoritative rules, often accompanied by some administrative agency, for monitoring and enforcing compliance”, b) Regulation as governance in a general sense: the aggregate efforts by state agencies to steer the economy”, and as c) Regulation in its widest sense: all mechanisms of social control” (Baldwin & Cave 1999; Jordana & Levi-Faur eds. 2004). The first sense of regulation will be used in this paper. Rule setting is usually the responsible for one type of actors, while “monitoring and enforcing compliance” is often shared with- or delegated to independent regulators. Rules and regulations constrain and enable the market forces. There is a need to examine the implications of this for the public service delivery systems in particular.

Regulation can be done through hierarchical mechanisms, or through management-based mechanisms (also called self-regulation where managers take responsibility for some of the regulatory action) (Ayers & Braithwaite 1992; Coglianese and Lazer 2005). Market-based regulations through (for example, exit options by citizens and customers) are also considered a regulative in this paper as market-mechanisms are used for the purpose of regulation as one of several strategies that regulators can follow, and that research has recognized (Donahue & Nye eds. 2002). For example, a country's Competition Authority as an administrative agency is monitoring and enforcing compliance with the competition laws.

In the public management literature and in the broader governance and regulation literature, the emergence of a new regulatory state caused by the regulatory reform movement has been recognized and is now considered standard knowledge in many areas. As we have seen, the movement, "this paradoxical combination of deregulation and re-regulation is what is usually meant by regulatory reform" (Majone 1994), has led a number of researchers to talk about a new regulatory state. So-called "freer markets" meant that more rules were produced (Vogel 1996). The characterization of the regulatory state has been neatly explained by in the literature (Braithwaite 2006; Jordana and Levi-Faur eds. 2004; Christensen & Lægreid 2006).

Using the regulation definition above, we will include a number of forms of "monitoring and enforcing compliance" that has gained prominence as part of the regulatory effort, including evaluation (Dahler Larsen 2005), auditing (Power 1994), standardization, accreditation, benchmarking (Van Helden & Tillema 2005), and best or "smart" practice identification (Bardach 1998).

Regulatory bodies populate the regulatory state and monitor and enforce compliance. They are here termed the “rule enforcers”, or “regulatory agencies”. Regulatory agencies could be organizations within the state such as the National Audit Office or a government department. In recent years there has been a trend towards delegating authority to independent regulatory agencies (Thatcher 2005).

In accordance with the definition above, regulators may come in the form of

- Independent regulatory agencies
- Evaluators
- Auditing organizations, including audit and accountancy firms
- Standardization organizations
- Best practice clearing houses
- Courts

Globalization of regulatory agencies: A specific kind of regulatory agency is standardization organizations and international associations, private organizations or associations that issue standards that are followed by delivery organizations and seen as authoritative. Organizations include the International Tele Union for telecommunication and standardization councils in each country. Performance data on public service delivery is increasingly being collected by international organizations, and compared through sophisticated benchmarking practices. A well-known example is the OECD PISA report on the level of learning in primary school systems in OECD countries. Suddenly, schools in Denmark are compared to schools in Japan and France. Benchmarking is becoming an integral part of the way public service organizations are assessed.

The Regulated Competition Model Summed Up

This section has outlined the different parts of the regulated competition model (see figure 1).

External elements put pressure on states to deliver services in more competitive ways. One set of actors are called rule setters. They set performance standards and rules for competition for public service delivery. A second set of actors are the public service providers. They act within the institutional constraints that exist and are here called rule takers. Competition takes place between public and private providers and between public providers themselves, both nationally and globally. The recipients of services are transformed from being citizens and user to being customers. The third set of actors is the regulators. They are here called “rule enforcers”. Regulation involves monitoring and enforcing compliance. They use a variety of regulatory mechanisms such as hierarchy-based rules and self-regulation rules, and market mechanisms and are exercised through a number of institutionalized forms, including evaluation, auditing, and benchmarking.

Figure 1: The regulated competition model about here

THE INSTITUTIONAL DEVELOPMENT OF THE REGULATED COMPETITION MODEL

This section explains how the regulated competition model can be viewed in a dynamic and developmental perspective, and what that means for the application of rules for competitive

behaviour. The key point is that rules and market structures develop in an uneven tempo over time, and therefore cannot be expected to be in synchronicity. Rule setting and structural choice is also a political act and involve politics which means that rules cannot always be expected to be coherent or coordinated with each other which again means that there are room for strategic action.

Institutional development

Research has long been focussed on how institutional change occurs. Different sets of rules develop over time, and are not always coordinated with each other. Rule setting and choices on structures often involves acts of politics (Moe 1990) which means two things. That rules are not always coherent and consistent, and that rules may be contradictory to other rules because different political and regulatory organizations are responsible for them. Rules cannot therefore stipulate a certain type of behaviour if the rules are inconsistent and contradictory and organizations that authorize and enforce compliance with rules disagree over turf.

In historical institutional theory the concept of the “path” has enjoyed prominence in analysis of institutional development. Paths begin in certain situations called “critical junctures”. A path sets forth a specific developmental course of action that cannot easily be change. Path dependency has been defined as “social processes that exhibit positive feedback and thus generate branching patterns of historical development (Pierson 2004: 21). The role of critical junctures has been highlighted in historical institutionalism. As Pierson (2004: 44) has described it: “under a set of initial conditions conducive to positive feedback, a range of outcomes is generally possible”. He also speaks of “relatively small events, if occurring at the moment, can have large and enduring consequences”. Determining which event can be called “small” or “big” is, of course, a challenging

question, and can only be settled by careful empirical analysis. The role of “the critical juncture” in historical institutionalism has played the same role as “the policy window” in theories of the policy process.

From recent insights into institutional change, (see Campbell 2004; Streeck & Thelen 2005), we know that governments cannot give a hundred percent directions on how organizations should behave. In historical institutional theory, the leeway for actors comes from the situation that the institutional guidelines (the formal rules) are not always complete or consistent. Rule makers cannot produce tight rules that cover all contingencies. In fact, the rules may even be contradictory. This means that service providers (rule takers or agents) have some possibility for independent action in the areas where the rules do not apply or are inconsistent. There will always be room for interpretation. Streeck & Thelen (2005) compare the situation with a court case where they may be general or specific rules, but where an attorney will always have the possibility to make a specific interpretation when dealing with an individual case, and a court (and the judge) will always have to make a specific judgement concerning the specific case if there is no obvious precedence. Recent research in historical institutionalism has therefore focussed attention on more gradual and dynamic change processes that allows for strategic action (Pierson 2004: chapter 7; Streeck & Thelen 2005).

”Political institutions are not only periodically contested; they are the object of ongoing skirmishing as actors try to achieve advantage by interpreting or redirecting institutions in pursuit of their goals, or by subverting or circumventing rules that clash with their interests. Instead of separating institutional development into periods where agency matters more than structure or the other way around, the aim must be to understand (...) the way actors cultivate change from within the context of existing

opportunities and constraints – working around elements they cannot change while attempting to harness and utilize others in novel ways” (Streeck and Thelen 2005: 19)

Streeck and Thelen (2005) point to five strategies for change process that “go beyond continuity”: “Displacement”, “layering”, “drift”, “conversion” and “exhaustion”. Change processes must be understood in their historical context, and by examining the dynamic processes change occurs within. “Displacement” concerns when rules are gradually displaced by other rules in time. This process will mean that some rules more active and is slowly replacing previous rules. “Layering” means that new rules are laid on top on previous rules. Older rules lose their meaning. “Drift” means that rules gradually fades away and stop becoming important. “Conversion” means that older institutions are reworked to new apply to new conditions and thereby get a new life or identity. “Exhaustion” means that rules become inapplicable, either because they cannot handle the amount of activity going on, or they might not “have run their course” in relation to the problem they were first meant to address.

One task is therefore to understand how rules have developed over time, what choices and political fights have occurred, and what the consequences are for strategic action and practice.

Institutional development of the regulated competition model: Denmark as an illustrative example

The argument about institutional development will be illustrated briefly with the example of the Danish experience with competition and regulation. Denmark embarked on public management

reform from the early 1980s. This was sparked off by an economic crisis where Denmark was characterized by its then minister of finance to be standing by the abyss of economic decline and even looking down “into the economic abyss”. The severe economic crisis meant a turnaround in macroeconomic strategy which included a reform of the public sector. The Conservative-led coalition government issued a modernization programme in 1983 which emphasized results-based management, use of information technology, management improvement and human resource management and marketization (Ejersbo & Greve 2005). If the economic crisis was a sort of a critical juncture, subsequent governments have continued along this development path, and each government has published their own version of the “modernization programme” (Greve 2006).

The rule makers are the central government and the Parliament firstly. In the structural reform, there are new powers given to central government agencies in many areas. In the social policy area, there are renewed powers to the Ministry of Social Affairs. In the area of environment, there are new powers to the Ministry of Environment, especially in the planning area. In the area of taxation, a new central merged Department of Taxation (now simply called “Tax”) oversees a number of regional tax centers. In education, the Ministry of Education is given new power to oversee high schools. High schools have been given status as independent organizations (self-owning institutions) after they were taken away from the former county councils. In health, the regions may decide over hospitals, but the funding is decided by the government, and some influence are delegated to the board of the hospitals, while many powers now reside in the health department. There are a number of discretionary powers given to the central government departments in the new structure.

Some of the rules are negotiated between the state and Local Government Denmark, the powerful local government association. At the annual economy negotiations between the government, represented by the minister of finance, and the local governments, represented by Local Government Denmark, a number of agreements and rules of the game are reached between the parties. In 2006, the agreements resulted in the government's acceptance of more performance-based objectives and less process regulation, and a cut in number of special funds in favour of transfer of money to the local governments in exchange for promise of specific outputs and performance measures. Local Government Denmark did also manage to stall the detailed regulation for marketization, but agreed to measures of the degree of marketization in 2010

Competition for public service delivery was a key part of the modernization platform in the 1980s. The rule takers are the providers of public services, who now operate in an increased institutionalized context. After a period filled with rhetoric about marketization, various governments began to institutionalize parts of the competition agenda. First, the rules for contracting out were specified. A commission on contracting out in 1991 formed the background for a central government circular on contracting out. As a member of the European Union, Denmark also had to follow the EU tendering rules. In the 1990's there were rules for establishing joint public-private companies. Competition rules were also applied to more public service areas. Later legislation also followed that allowed private companies to challenge public organizations to take over public service delivery (the so-called on Law on private companies' "right to challenge"). Consumer choice ("free choice") had been a topic for most of the 1990s, but serious legislation first came in 2002 when a new Liberal-Conservative government came to power. A database maintained by the Ministry of Social Affairs keep a list of all private providers in the social service area

(www.fritvalgsdatabasen.dk) In the report “Welfare and freedom of choice” (Ministry of Finance 2002), the government centred its public management policy on giving citizens as consumers powers to choose between different public and private providers. An action plan for public-private partnerships was published in 2004. The government has established a number of organizations to provide back up for competition. There is a Council for Contracting Out, The Tender Portal (an internet portal on competition for public service delivery that the government operates together with Local Government Denmark, the association of local governments in Denmark). There has also been legislation to provide citizens as customers with service information, and there are websites with performance data that consumers can use when they choose provider.

The move towards more competition is coupled with regulatory initiatives. This section aims to describe the emerging system of regulation after the structural reform has been implemented. We may divide between the rule makers, the rule enforcers and the other market-based or management-based regulatory tools that the government enacts or supports. Here we concentrate on showing who the institutionalized regulators are. First the *rule makers*

Rule makers have delegated power to monitor and enforce rules to *rule enforcers* (here termed regulatory bodies). They come in a variety of institutional forms.

A key tool, instrument or technology for regulation is *benchmarking* (Van Helden & Tillema 2005; Triantafillou et.al. 2005). Benchmarking enables comparison of performance across borders whether these borders are between local governments, between public service organizations, between public and private providers or between national and international organizations. The benchmarking exercise will typically result in a ranking system that produces a league table. This

does not always have to be the case. Rankings can of course be hidden away and not published, and benchmarking can be between small groups of organizations with the aim of facilitating learning processes. But the most likely scenario is that rankings will be done, and league tables of performers and non-performers will be produced and published for everyone to see and judge.

When the structural reform has been implemented, the following regulators seem particularly important for competitive public service delivery.

First, there are the central government regulators within government departments. They consist of the Ministry of the Interior, the Ministry of Social Affairs and the Ministry of Finance specifically. But other ministries have roles too. Often there will be a potential conflict, when the ministry both acts as a rule maker and a rule enforcer. The Ministry of Social Affairs, for example, gives money to projects, and also controls if the money is spent wisely themselves.

Second, there are government councils. This could be complaints councils for various policy areas (for example Consumer Complaints Council, the Complaints Council for Tendering etc.).

Then there are the traditional regulators, some of them with new powers or expanding briefs on what they should regulate. The first one is the National Audit Office which is “Parliament’s Audit Office”. They investigate if public service organizations deliver public service in a timely, correct and economic manner. The National Audit Office does financial and management auditing. Also within the Parliament’s reign is Parliament’s Ombudsman that investigates cases of maladministration. Within the central government, there are also regulators that have special purposes. The most visible in this context is the Competition Agency that oversees competition and

abuse of monopoly power. The Competition Agency has limited power over traditional public service delivery, but as soon as private providers are engaged in service delivery, and some competition between public and private actors have been created, the Competition Agency has power to step in. Parliament has a number of independent regulators. A number of councils are likely to increase their importance. This goes for the Consumer Council that look after consumers' interest, and will increasingly also apply their services to competitive public service delivery.

In the areas of utilities, independent regulatory agencies have been established in recent years: The Telecom Regulation Agency, the Energy Regulation Agency and the Traffic Agency. Each of these regulators has been delegated authority to regulate by acts of Parliament.

A general regulator for local governments will be the responsibility of the state's regional authorities which will oversee the activities of local governments formally. There will be five such entities, each placed in the 5 new regions.

A number of evaluation agencies, which will here be termed regulators also, do exist in various policy areas for public service delivery at the local level. The perhaps most well-known is the Evaluation Institute that evaluates education and teaching. In addition to that, new regulators are also being established in various policy areas. For example, for primary school education, there is an evaluation agency for schools.

New reforms have meant that new regulatory agencies are coming into existence. The most visible one is the Local and Regional Government Evaluation Agency (KREVI = "kommunale og regionale evalueringsinstitut"). This evaluation institute was established by an act of Parliament as a

part of the legislation of the structural reform. The purpose of the Local and Regional Government Evaluation Agency is to control the service quality of local governments and compare the service quality across local governments. The Local and Regional Government Evaluation Agency is placed in the town of Aarhus, and will have a board consisting of members from the local governments, the ministries and the universities. The Local and Regional Government Evaluation Agency is formally under the Ministry of the Interior.

Another set of regulators are the private organizations that do audits for local governments. Although they “monitor” rules, they cannot “enforce” the rules; at least not by themselves. Local governments can have their books and activities audited by accountancy firms, and many choose well-known accountancy firms as well as local firms. A big player in local government auditing is the company “Local Government’s Audit” which is owned by the Local Government Denmark association. A part of the company also sells consultancy advice to local governments on normal business terms. Furthermore there are various private standardization and accreditation organizations that can count as regulators in our sense of the term here. Danish Standardization is one example of such an organization. Hospitals are accredited by international accreditation associations. Various branches of business have their own associations which can issue “certifications” and “accreditations” that public service organizations can abide to. Private consultancy firms do evaluations for central government departments concerning the quality of services.

Local governments increasingly find themselves in international rankings, such as the famous OECD-PISA investigation in primary education. The various regulatory in the European Union also play important parts, of course.

Institutional Development of Regulated Competition Summed Up

This section has argued why regulated competition action should be analyzed in an institutional development perspective. If the categories suggested by Streeck & Thelen (2005) are employed, the following development could be said to occur in our illustrative example of the Danish public service delivery experience: There is some “displacement”: Rules for competitive tendering and EU rules are gradually displacing public sector rules for public delivery. Rules on accrual accounting are also displacing the old cash-based budget systems. “Layering” takes place when rules that allow private sector companies to challenge public sector bodies for their service delivery, and rules for consumer (“free”) choice of public services, are proposed. “Drift” takes place when rules and regulators concerned with traditional public sector-style delivery (ombudsman, traditional auditing) no longer has the same status as before. “Conversion” happens when the competition rules get applied to public service activity, and when regulators like the Competition Agency turn its attention to public service delivery. “Exhaustion” is relevant if government auditing and evaluation cannot meet the demands of the new competition-based service delivery system. Empirical investigations are needed to explore how these developments take place in individual countries.

PUBLIC LEADERSHIP STRATEGIES

How can public service organizations and public leaders respond to the external pressures and the regulated competition model that were discussed in the first sections of the paper? It could seem as if public leaders of service delivery organizations have few choices. This is perhaps the first

perceived implication of the regulated competition model. It is precisely regulated from above. Central government, international organizations and regulators locally, nationally and internationally can use various means to ensure that there is, in fact, competition among service providers, and that all organizations perform efficiently.

If there is room for interpretation of rules, however, as is argued in the historical-institutional approach to institutional development described above, what possibilities for action do public service organizations and public managers have? How can they make public management strategies in response to the pressures of the regulated competition policy? Some theory building in public management scholarship has been concerned with how public leaders can act strategically, and more broadly, how public management strategies can be practiced. The international public management literature has been much inspired by the influential work of Mark Moore (1995) on “creating public value” and how public managers most realize the full potential of the institutional contexts they find themselves in. Others have looked at particular strategic reform elements such as leadership strategies that involve stakeholders (Bryson 2004). The discussion has also focussed on strategic capabilities connected to the institutional and discursive conditions in the public services (Pedersen, D. ed. 2004).

It seems certain that there are several new competences that public leaders of public service delivery organizations must master to be able to cope in a regulated competition context. These competencies include strategic contract management competencies (Kelman 2002), competences to relate to customers, competences to act in a regulatory environment and competencies to forge alliances and networks with organizations (Klijn & Teisman 2004), and competencies to enter or prevail in a market (Fliegstein 2001).

Here I want to focus on a particular point: What happens when public management strategies have to develop in the face of a strong institutional pressure for the regulated competition model?

Fortunately, a robust theoretical framework exists that can be used as a point of departure for this analysis. Christine Oliver (1991) has published an article on “strategic responses to institutionalized processes”. She combined institutional theory with a resource dependency perspective. Her argument has become influential in the institutionalist literature, because not much of the literature in institutional theory in sociology and historical-institutionalism was focussed on strategic action. Since then, more scholarship has developed on the topic, and recent interest has been on “institutional entrepreneurs” (Campbell 2004), but Oliver’s classification serves as a constructive framework to discuss strategic action in public management with.

Oliver (1991) has suggested several ways for “strategic responses to institutional processes” (the title of her article). We will deal with these responses here (the fifth one “compromise” will be considered to be a consequence if any of the others fail, although Oliver treats it as a response in its own right). They are divided into two dimensions: Does the actor have a pro-active or a re-active response? Does the actor accept the institutionalized rules of the game or not?

One response is to “manipulate” (pro-active / acceptance). Here public leaders use the tactics of co-optation, influence and control. This is a pro-active response, but one that tries to influence the rules of the game. Co-optation means that public managers will try to import stakeholders into their institutional structure. This can be done by, for example, asking a potential enemy to be on the board of the organization. Or this could be to build a new partnership organization where both your own and your counterpart’s organization are represented. Influence means that the public managers

will seek to influence the discourse guiding the rules and the interpretation of the rules among stakeholders and networks. This can be done through extended use of organizational and political communication (“second order strategies” in the words of discourse analysts). The last possibility is to “control”, that is to directly seek to dominate organizational counterparts through political actions, lobbying and interest group pressure. “Manipulating” is somewhat akin to the classical argument of controlling or enacting the organizational environment.

A second response is to defy the rules. (pro-active/non-acceptance). This is a pro-active response, and one that does not accept the rules of the game. Here public leaders use the tactics of “dismiss, challenge or attack”. Dismiss means that public managers will simply ignore the rules or the informal norms that are associated with them. Marketization could be such a value that public managers will simply bypass and not pay attention to. Another response is to challenge the new rules. This could be rules advocating marketization where public managers could say that this has nothing to do with public sector values of impartiality and correctness. Attack is pretty obvious: to mount a counter-attack on the proposed rules. If governments suggest more marketization, then public managers will seek to demonstrate the hierarchical governance structures can deliver the same kind of quality of service.

A third response is “avoidance”. (re-active/non-acceptance) Here public leaders use the tactics of “conceal, buffer or escape”. This is a re-active response, but when managers may appear to accept the rules, but in reality try to shelter the consequences of those rules for themselves. Public leaders may hide their actions while pretending to be following the rules officially. They may establish some kind of buffer zone (for example, attending meetings, but then not comply in reality. Or they may simple try to circumvent the rules by some device so the rules do not apply to them. This may

involve getting good lawyers to make responses on how rules can be avoided, even though one should think they would apply.

The fourth response is “acquiescence”. (re-active/acceptance) Here public leaders use that tactics of “habit, imitation or compliance”. This is mainly a re-active response. They also accept the rules of the game. Public leaders may be loyal civil servants who just to whatever the politicians tell them to do. Or they may just follow the norms and the logic of appropriateness and do what they think other public managers are doing in the same situation. Or they may imitate the practice of some other local government or public manager that they usually follow without giving it too much consideration.

A fifth possibility is one of “compromise” that may follow if other strategies fail. Olivier treats compromise as a strategy in its own right. Here, the “compromise” strategy is residual strategy that can be used if any of the other strategies fail. “Compromise” is both acceptance and non-acceptance of the rules of game (non-acceptance at first, reluctant acceptance later on), and both pro-active and defensive (defensive first by not wanting to enter agreements, active later when agreements are made – or visa versa!). That is why “compromise” as a category is hard to deal with. Here we will treat it as an option that public managers can use, but which is not always their first choice.

Table 1 on public leadership strategies about here

There are different strategies open to public strategies. The strategies are dependent on the room for interpretation that rule makers give rule takers. But as we know, rules are incomplete, they are inconsistent and they may even be contradictory, so there should nearly always be room for

interpretation and application to a particular public service organization or public manager's situation. Thereby, the possibility for strategic responses to institutional pressures is open. How the public management strategies are carried out in practice remains an empirical matter.

In the Danish context, the different strategies have been employed in relation to public management reforms in recent years. "Manipulate" was used by front line local governments who have been active in commissions, conferences, meetings etc to influence the institutional setting of the "new" public sector". "Defy" was used by a number of local governments when they openly stood up the government to challenge the tax stop in the fall of 2006. The mayors announced they would spend the local governments' money no matter what the central government said. "Avoidance" appears to be widely applicable strategy. When structural reforms were suggested for Copenhagen, the local government of Copenhagen avoided being reorganized. "Acceptance", or standard rule following, is perhaps common for most local governments who will just implement the different competition statutes and will also act as obedient as they can to the many regulatory requirements set upon them. "Compromise" is perhaps the strategy for the "peak organizations", here Local Government Denmark, who has to negotiate with the central government on behalf of all service providers in the local governments. It will be an empirical matter to determine which strategy is most popular with public leaders in the face of a regulated competition model.

CONCLUSIONS

This paper has argued that various pressures exist – the speed that arguments about innovative public management practices are spread across the world, countries’ positioning for a place in the global economy, and the performance movement’s pervasive influence – for the public sector to increase its performance. One model that has emerged is here called “the regulated competition model”. The model emphasizes the combination of competition as the main governance tool, and creates conditions for competition between public service providers with regulation and regulatory agencies (the “competition and oversight” hybrid in Hood’s (1998) terms). Public organizations compete with private organizations – and public organizations will increasingly be competing with other public organizations as well. Competition is coupled with regulation in a variety of ways. Governments impose rules for competition on providers, and delegate rule enforcement power to independent regulatory bodies both at the national and at the international level. The process towards a regulated competition practice is an institutional development process which includes making rules for markets. The Danish case illustrated how an institutional development process occurs over several decades. The process is not necessarily coherent, and institutional configurations in particular countries may be inconsistent and even contradictory. The paper has gone on to ask what possibilities there are for public management strategies within a model of regulated competition. Based on Christine Oliver’s theory of strategic responses to institutional pressures, the paper has outlined four basic public management strategies. The paper’s last part has illustrated how leaders of public service organizations can respond by using the Danish case as an example.

Public leadership strategies may - to paraphrase both Oliver (1991) and Streeck & Thelen (2005: 19) – involve leaders that engage in strategic change processes in response to the opportunities and constraints in ongoing public management reforms with a “regulated competition combination”, and public leaders are likely to “harness” and “utilize” the opportunities of the regulated competitive framework in innovative ways, while trying to “work around” the institutional restrictions of the regulatory framework that they cannot change themselves immediately.

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Figure 1: The regulated competition model

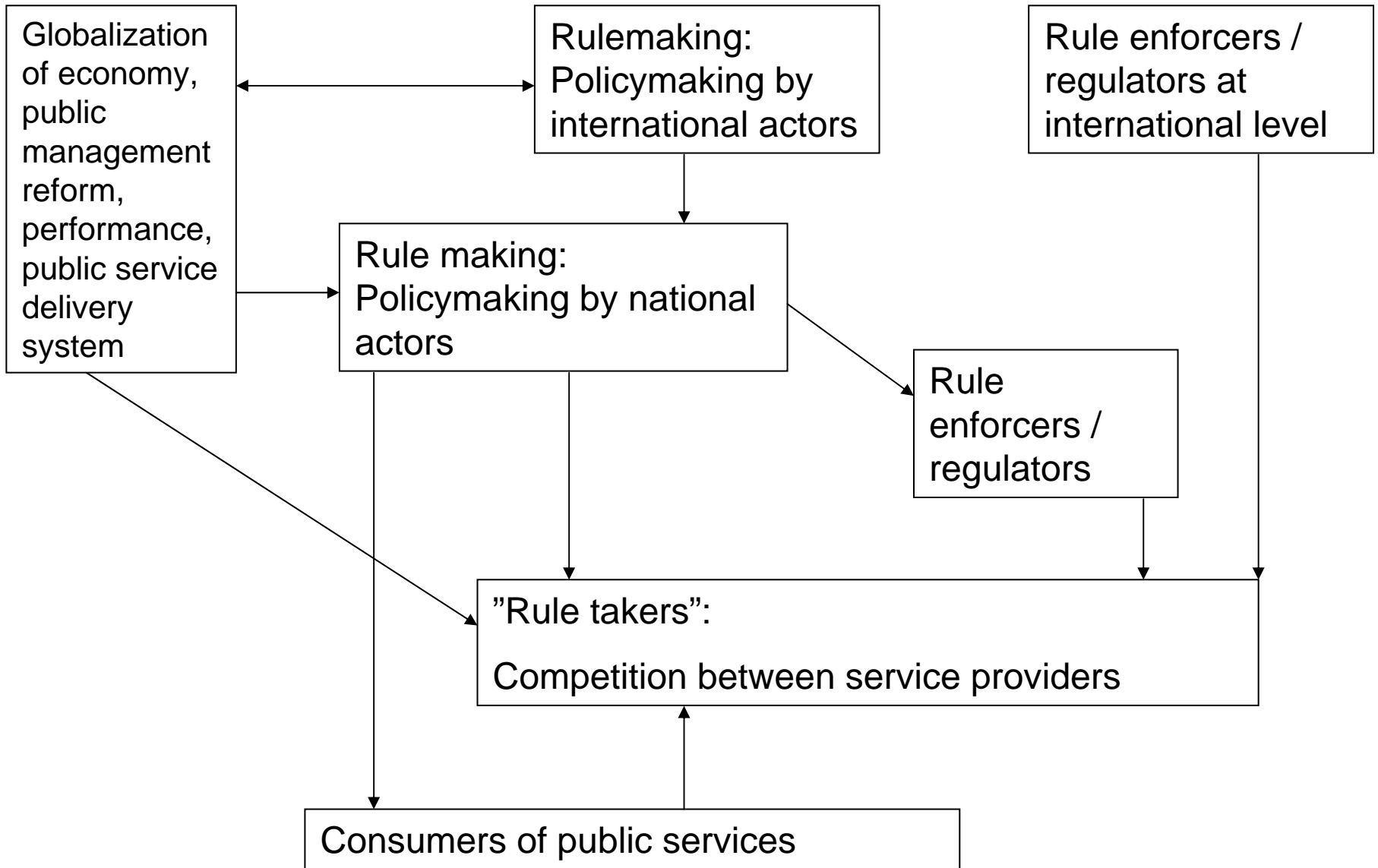


Table 1: Public leadership strategies in the regulated competition model

Relation to rules/ Type of activity	Acceptance of rules of the game	Non-acceptance of the rules of the game
Pro-active position	<i>Manipulate</i> : "Play the game", beat the competitors	<i>Defy</i> Dismiss & attack arguments, go on as usual and believe in your own qualities
Re-active position	<i>Acquiesce</i> Act as you are told, comply with rules out of will or out of habit	<i>Avoid</i> Make a buffer, escape to other set(s) of rules