

Policy framework for a mixed economy in the supply of e-government services

Response by Council of Property Search Organisations to Office of the e-Envoy Consultation Paper

1. On 29 May 2003 the Office of the e-Envoy published a consultation document *Policy framework for a mixed economy in the supply of e-government services*. The document seeks views on the vision of the involvement of private and voluntary sector intermediaries in the delivery of electronic government services. Comments on the paper are sought by 15 August 2003.

2. This paper is the submission of the Council of Property Search Organisations (CoPSO). CoPSO represents the interests of the growing number of private sector organisations that provide property information reports. Currently, the Association has seven members (Richards Gray, One Search Direct, STL, Landmark Information Services, PSA, PSG and Sitescope). The Council is seeking to expand its membership to cover the whole of the sector. CoPSO requires its members to have professional indemnity insurance and has introduced a mandatory code of practice.

3. The members of CoPSO analyse, interpret and add value to government data so as to facilitate the house purchase process. They therefore have a considerable interest in the supply of e-government services, particularly by local authorities and a number of public sector agencies. Property search organisations assist the house purchase process by providing the results of necessary searches of information held by local authorities and other public agencies more efficiently than the authorities and agencies can provide themselves. The companies are retained mainly by conveyancers acting on behalf of purchasers. They are now involved in around 40% of all house purchase transactions.

Key points

4. CoPSO's key points are –
- The focus for the government should be on the use of technology to deliver government services not the narrower point of consumers accessing government services electronically.
 - The mixed economy framework and the emphasis on competition in the consultation document are fully supported.
 - Public agencies should concentrate on the quality and accessibility of data for which they are responsible.
 - Competition policy issues arise where public agencies hold data and supply it in competition with other providers. There is a danger that new public sector monopolies will be established.

Technology means and ends

5. The government has adopted targets that relate to electronic delivery of government services and high levels of use of electronic means of access. The current e-government target is: "Ensure departments meet the Prime Minister's targets for

electronic service delivery by government; 100% capability by 2005, with key services achieving high levels of use.” This focus is wrong because it lays emphasis on means of delivery rather than end results to the consumer. The target should be that services are available efficiently and that the consumer has a choice of how to access those services which might include face to face, postal, telephone and electronic.

6. This point can be illustrated by reference to the tax disc. Information relevant to renewing a tax disc is held by the DVLA, which holds existing information on tax discs and vehicle ownership, insurance companies, which hold the necessary information on insurance cover, and those responsible for MOT tests. At present, the system is hugely inefficient in that the car owner has physically to send an MOT certificate (where this is required) and an insurance certificate to DVLA which then issues a new tax disc. The alternative is for the documents to be taken into a Post Office. Either way, the transaction is user hostile, time consuming, susceptible to fraud and prone to significant error. Presumably the government would feel that its target was met if people scanned into their home computer their MOT certificate and insurance certificate, and e-mailed these to DVLA, together with details of their credit card, or separately posted a cheque, with DVLA then issuing a new tax disc. In this particular case, far from making the process easier, electronic delivery of this particular government service has become more complex with the consumer having less choice about how to pay rather than more. Surely the ideal would be if DVLA could, say, one month before the expiry of a tax disc, interrogate a database of MOT certificates and the databases held by insurance companies and provided these showed that there was an up-to-date MOT certificate and insurance certificate, then simply send a renewal notice to the car owner who could either send a cheque or telephone and give a credit card number with the tax disc then being posted. There would be no electronic delivery of a government service here but the extensive use of back office technology would enable the service to be delivered more efficiently to the public.

7. There are numerous examples from the private sector where technological improvements have led to a greatly improved service delivery but without the public necessarily accessing services electronically. For example, someone who changes their car can now telephone the insurance company, give the registration number of the new car, and the insurance company can access the DVLA database for details of the new car rather than the individual having to give the necessary information. Again, there is no electronic delivery of services to the customer but technology has been used to improve the service. Travel is an area where some people do purchase tickets electronically but even those who go into a travel agent or who use the telephone benefit by the person they are speaking to having access to much better technology, indeed far better than their own technology. Banking illustrates how service delivery in the private sector has moved. The major banks now expect to offer to their customers an account which can be accessed by any means, that is calling into a branch, by post, by telephone or through the Internet. This is what gives the customer the best possible service and the most choice. Forcing people to use electronic access when it is not their preferred means of dealing with the bank will not be regarded as acceptable and will fail in the market place. Those banks that offer Internet accounts also offer a range of other accounts.

8. The government needs to switch its targets from forcing people, and indeed government departments, to electronic delivery of services to an emphasis on the more efficient delivery of services by using technology in the most appropriate manner for the product and the customers.

Environmental information for home buyers

9. Over the last few years there has been increasing recognition that home buyers need information about the possible environmental risks on the properties they are purchasing. The Environmental Protection Act formalised these concerns. In June 2001, The Law Society published recommendations in a warning card setting out the duty of care owed by conveyancing solicitors with respect to environmental risks and liabilities. In order to meet that duty of care, solicitors need a report on environmental factors affecting a property. Two companies, Landmark and Sitescope, have over the last few years rapidly built up a business to meet this need and now provide reports for over half of all property transactions. The companies have competed strongly with each other which has driven down the price of those reports, helped by the substantial increase in volume of business. The reports are not confined to factual information but also include interpretation and recommendations for any remedial action.

10. Here, there has been no electronic delivery of a government service, rather private companies have analysed a variety of government held information and provided this information in a user friendly way to solicitors and other conveyancers acting on behalf of house buyers. Incidentally, while both companies have very little direct dealings with the public, people can order from them electronically an environmental search on their property.

11. This experience is a model of how technology can be used to access, analyse and disseminate government held information in a way that benefits the public without the public accessing the services electronically themselves.

12. Issues have been raised however in respect of access to some information. The Environment Agency provides some of the data used in the reports prepared by Sitescope and Landmark. The Environment Agency also makes available, for a fee, its own analysis of the data it holds. The Environment Agency would clearly like to expand its business. The best illustration of this is the government's consultation document on the contents of the proposed Home Information Pack, where the question asked is not whether an environmental report should be included but rather whether an Environment Agency report should be included. The Environment Agency report is very detailed with a large amount of information but no interpretation. It gives no indication as to whether the findings of the report would adversely affect the value of the property or give rise to a potential future environmental liability. The evidence submitted to the Office of the Deputy Prime Minister on the draft Housing Bill and to the House of Commons Select Committee for its hearings on the Bill overwhelmingly argues that what is needed is a report that gives the necessary information, not a report from specific government department. At the same time, the Environment Agency has been increasing the charges for the data it supplies to commercial search agencies. At first sight, this is an example of

a government agency acting contrary to the principles set out in the consultation paper and indeed an agency seeking to abuse its dominant market position. Both Sitescope and Landmark have already made complaints to the Office of Fair Trading on this matter.

Local authority searches

13. Home buyers need to be certain that the local land charges register does not contain any information which could adversely affect the value of their property and they also need information in respect of planning applications and other local decisions which may affect the value of their property. The local authorities alone hold this information. When an offer for a property has been accepted, the purchaser's solicitor will normally seek this information from the local authority. The best authorities provide the information in a matter of days. However, some authorities can take as long as ten weeks to provide the information, thus totally frustrating the house purchase process. To deal with this failure by local authorities a number of private companies undertake local authority searches on behalf of conveyancing solicitors. They either physically go into the local authority and examine the records for a particular property or, in the case of one property search company, it seeks to digitise the information in advance so as to be able to respond to search enquiries as they arrive. Private search organisations have rapidly been increasing their share of the business and not only in the poorly performing local authorities. They now have a hand in over 40% of all transactions. The large firms of solicitors have discovered that by using these companies they have a guaranteed quality of service, guaranteed delivery time and a fixed price and, as a result, have in some cases pushed all of their business to the companies even in respect of those local authorities capable of providing a fast turn around.

14. This business is not necessarily high tech but again is an excellent example of private sector intermediaries handling government held information in a way that manifestly benefits the public.

15. Ideally, local authorities would provide all the information on line. Local land charges registers in particular, but also all the other data they hold, lend themselves to digitisation and ready availability either on line or through a call centre. In fact a mechanism exists to provide the service in this way through the National Land Information Service. This service and government ministers have boasted that the system has been capable of providing search results in 13 minutes. In fact very few people want the data in 13 minutes; four days would be quite acceptable. The fact is that only 44 local authorities operate the service. For the others, the incentives to do so are clearly lacking.

16. The activities of private search organisations have manifestly forced some local authorities to improve the quality of the service they provide, again a good example of competition improving the quality of the service. However, other local authorities have taken a different attitude. Their response is to limit the access which the property search organisations have to their data, by physically limiting the number of searches that can be completed or imposing a timetable on when searches can be done. Also, some information is not made available by local authorities to property search organisations

although local authorities will make that information available to someone who pays them directly for the search. This again is an abuse of monopoly power.

17. The government is proposing that people selling homes should have a Home Information Pack available setting out a whole range of information including that from local authority searches. However, it is proposing to take no action to require local authorities to provide the data in a timetable that would make the packs workable. It merely expresses the hope that local authorities will meet their ten day target for turning round requests for information. A more drastic solution is needed such as a requirement to provide search information within, say, five days with financial penalties applying for each day thereafter. Here again the solution is not electronic delivery of services but rather effective delivery of services.

Some guiding principles

18. The consultation draft sets out twelve guiding principles. These principles are generally supported. They are set out below with any CoPSO comments following in brackets -

- Intermediaries are organisations from the private or voluntary sectors offering services targeted at groups of customers. They do not offer services on behalf of the public sector, and shall not represent themselves as so doing. The intermediary is acting as an agent of the end consumer. [As for CoPSO members the intermediary may be acting as an agent of the agent of the end-consumer.]
- Intermediaries shall be free to target any customers for their services.
- Intermediaries are free to offer any legal products or services. [The word “legal” is unnecessary if it means lawful and restricting if it is intending to apply to legal services.]
- Intermediary propositions shall only be refused by departments on grounds of explicit and relevant conflicting policy, or where any arrangement with a particular intermediary or types of intermediary would preclude others from intermediating the service. [This should be extended to local authorities and public agencies.]
- Negotiations at each stage from inception to launch shall be time-boxed and agreed by both parties. [Is it necessary to say this? All negotiations must be by agreement.]
- Partnerships with intermediaries will work best when both parties have a natural, mutual interest in the arrangement and remuneration should not be necessary. In some instances intermediaries may receive a fair remuneration.
- Any charges to intermediaries for the consumption of public sector resources shall be made in accordance with existing Treasury guidelines. [The guidelines are not very helpful. They do not cover local authorities and it is not possible to establish whether the Environment Agency is caught by the guidance. There must be firm guidance covering all public sector bodies.]
- Intermediaries must conform to legal requirements that enable them to intermediate public services effectively.
- Intermediaries and Departments will conform to the government technical standards for interoperability and information exchange.
- Intermediaries can expect effective and efficient access to public sector informational and human resources to enable successful mediation in the supply of public services.

- Intermediaries can adopt their own brand in their interface with their customers.
- Incumbents must not abuse their dominant market position.

19. The principles underlying the principles are also accepted. The consultation document makes clear that “Involving intermediaries in the delivery of public services will allow government to expand the overall number of deliver channels over time (demand driven) and enable us to offer public services in attractive, innovative and customer centric ways. It is also expected that the promotion of a competitive market for intermediaries will lead to a consistent drive towards improved customer centricity and service delivery efficiency.” The overall policy of the government is that: “All Departments should involve private and voluntary sector intermediaries for e-government services as part of their overall e-government strategy.” The principle most relevant to CoPSO members, principle 4, that intermediary propositions should only be refused only on grounds of explicit and relevant conflicting policy is fully supported.

20. However, the principles rather reflect a lack of a joined-up government approach. They are largely related to a position whereby an intermediary has a contract with a government department to provide a service to the public. There are many other cases, for example local authority searches, where there is no contractual arrangement at all, rather what private sector organisations do is analyse, interpret and disseminate information held in public registers, whether electronic or any other form. The companies concerned may or may not deliver their services electronically and indeed some of the activity of property search organisations makes very limited use of technology. The driving force is not technology but rather delivering an efficient service in the way that the customer wants it, and use the appropriate technology for this purpose. The fact is that they house purchase process does not require instant searches but does require them in something less than ten days.

21. The overriding principle should be that public agencies should have a statutory responsibility for ensuring that data for which they are responsible is up-to-date and accessible and that they should provide data in a way that does not abuse monopoly power in respect of either price or the availability of data. Principle 12 is that incumbents must not abuse their dominant market position but there is very little explanation as to how this principle will be applied. The OeE will be developing a guidance informed by models drawn from market regulators. However, this should also properly be a matter for the Office of Fair Trading.

The consultation mechanism and joined up government

22. There is general acceptance of the need for joined up government and many of the major issues now being addressed can be described as cross cutting issues. The Office of the e-Envoy is seeking to impose a policy across a whole range of government departments, agencies and indeed local authorities over which it has no direct responsibility. The OeE is not alone in this respect. A number of government departments and agencies are in a similar position. The Equal Opportunities Commission is seeking to impose equal opportunities policies across all government departments. The Cabinet Office has a whole range of policies which it is seeking to have applied

universally. These include a policy on consultation. It is significant that those government agencies which seek to influence other government agencies are not always the best at meeting any requirements that they themselves are supposed to follow.

23. This is true in respect of the consultation paper. These comments on the consultation process are made partly to illustrate the difficulty which government departments have in influencing other departments but also because it is felt that the quality of future consultation exercises could be improved. In 2001, the Cabinet Office published criteria which government departments must adhere to for written consultation exercises. The OeE paper appears to have been written largely in ignorance of these criteria. There is no brief summary. It is not clear what is being consulted on. The stated questions in the introduction mix up a fundamental all-embracing question with questions about the nature of the respondent. It is not clear who is being consulted. Page 2 refers to “an intermediary acting on your behalf” implying that the paper is aimed at consumers. Page 3 asks if respondents would identify whether they are acting as a potential intermediary, while the introduction (which appears on page 11) states that the target audience is strategic planners and leaders in public sector organisations. The consultation paper does not have, as is required, the seven consultation criteria. There are no contact details of who to contact for queries about the paper and indeed the paper itself does not even say to whom responses should be made and by what date (although this is on the OeE website to be fair). The paper is labelled “A consultation document” is described in the overview as a draft consultation document but in practice there is no indication anywhere of why views are being sought or for what purpose. With some very modest redrafting the excellent points in the consultation document could have been presented in a more user friendly way which probably would have had a more effective response.

24. It is worth pointing out that the bit of the Cabinet Office responsible for consultation policy has failed equally dismally in its attempt to put together a single on-line register of consultation documents. Any criticism of the e-Envoy in respect of joined up government applies equally to almost every other government department but nevertheless the point should be made.

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