

What should we do with Land Administration Data?

Privatisation of Land Registries is a hot topic right now, certainly in countries where a Torrens – title System is used, we see very recently several examples.

Ontario in Canada recently granted a concession for 50 years to a private company for the exploitation of the Land registry. In Manitoba the same company got a concession for 30 years.

In South - Australia 1,6 \$ billion was paid for a concession, in New South Wales it was 2,6\$ billion. In Adelaide an innovation hub is to be installed by the concession holder with an estimated cost of 35\$ billion.

In Great Britain there was an intention to privatise the services, but this decision has been delayed. 1£ billion was the estimated value of the contract. Government was decided to do so, but a strong bottom-up resistance made it stop, at least for the moment. Even action groups were set up. It all was part of a bigger movement against privatisation of all sorts of public services.

Anyway we see that with privatisation of land Registries there is a lot of money involved. So, one can imagine that there are a lot of different interests and stakeholders.

In an ideal world land registry services should be provided by the state, at low cost and high performance. But in reality that is an utopism. From the point of view of the states it is well known that Land Registry services are often considered as too costly. Since this is politically seen not the most sexy service it cannot count on a lot of credit from politicians neither and citizens are as a group not often aware of the importance of land registration.

On the other hand, for different reasons, private companies are in the ability to offer huge amounts of money in order to get the contracts.

As told me recently a Canadian land registrar: “What politician could resist the temptation to get all at once a huge amount of money he can use to realise his policies for a service that is often not considered by the public as indispensable, due to a lack of knowledge?”

Opponents say that selling out the Land Registry is taking short – term financial gain instead of choosing for a comfortable profit every year.

We also see that a lot of more or less failing states do have a clear legislation on property, matrimonial regimes, land registration and so on. But they lack the capacity to organise public services that implement them. On top of it, a badly organised Land Registry is a continuously ticking bomb for financial claims against the state. We also cannot forget the possibility of internal fraud. When this fraud results in a financial loss for a private company it is likely that the owner sets up a better control mechanism than public services will do.

So, under these circumstances it may be a solution to privatise these services. As the company as well as the contract may be very solid they may perhaps survive changing regimes and deliver a good service to the public.

The fact that it may be very specialised firms that are interested in the exploitation of Land Registry services may result in outsourcing to off- shore companies, which might cause problems from the strategic point of view of a country as well as concerning the integrity of the companies.

Opponents also argue that outsourcing these services will result in a loss of confidence even to a point that mortgage companies don't accept property and mortgage registration anymore as sufficient proof of an existing collateral and will demand extra titling insurances; all of this as a result of the lack of state guarantee. Undoubtedly this will produce extra costs for the citizen.

On the other hand it cannot be denied that public agencies are often not as flexible as private companies. The choice of human resources often meets other standards than efficiency. Also there is often a lack of flexibility to recruit new personal or dismiss them when necessary.

The implementation of new technologies, improving efficiency, is likely to work out better in private companies since the decision process generally is far more flexible. Also it is less bound by rules. Where in public service generally the cheapest contractor has to be chosen, a private company will more likely also take into account other criteria, even unwritten ones.

The decision process in public service is far more complicated and influenced by politics. Where short-term thinking may prevail on long-term investments.

There is also a better chance that private companies develop new products that respond to the changing demands of the customer in order to increase the profit. They also might take advantage of geographical information provided voluntarily by the citizens.

When considering privatisation it are not always purely economic prerogatives that prevail. From a Sociological point of view, political choices are taken into consideration as well. It is obvious that politicians with a liberal orientation prefer to minimise the impact of the state and are largely in favour of paying for private services rather than maintaining a public service. When it comes to being in favour of the implementation of the Blockchain technology in public services, the same politicians welcome the distributed responsibility that comes along with this technology. It gives them a reason to cut back on public administration.

From the point of views of an interested private company it may be clear that they want to be profitable! So the terms of the contract have to be written out very well so that the desired service is guaranteed at a reasonable cost.

It is often argued as well that private companies deliver better services. I do agree, but only when concurrence is ensured! So I don't think it is a good idea to sell the Land Registry to a company or outsource the operations to only one company for a long term. Why wouldn't it be possible for several firms to perform the operations?

We started with some examples of privatisations operations. The huge capitals involved result in a very high barrier to participate in the market. So it is likely to be very powerful investors, as for instance pension funds or multinationals, that get the contract. In a later stage this may cause an imbalance in power.

I doubt that in the whole privatisation process, the main goal of land registration, being providing legal security to citizen and markets on real estate transactions, will remain the first concern of private companies!

Unless there are different companies allowed to perform the services monopolists are created. These monopolies are even more dangerous than the so-called "Natural monopolies" states have. A commercial contract is fixed. Generally unless there is paid compensation, it cannot be changed. If, on the other hand, state monopoly does not meet the expectations anymore, there is always possibility to undertake legal action.

Since it are more likely outdated public services that are offered to the market, huge investments on IT are required from the overtaking company; as well as for logistics and capacity building. So it is only normal that they are only interested in long- term contracts. It is not likely that the public gets a better level of service at a lower price under these circumstances.

Of course land registries dispose of a huge amount of indexed data. In many occasions they are an indication of the wealth and express preferences of citizen. These big data have a huge commercial value. Of course companies want to cash that.

Data of land registrations cover geo- spatial and personal information on the asset. There is a juridical relation between the two, which is the reason why the service has been set up. Concerning the geo- spatial information more and more the idea spreads that it should be as public and as available as possible. So far, no problem. Even the personal data, kept in the documentation may not be that private that it causes doubts either. In fact, it isn't the medical record of an individual person that is kept. But is the relation between the two where problems may occur and where one has to be extremely careful! Of course it exactly this combination of data that is commercially interesting.

It may commercially be very interesting to discover large-scale indications on wealth situations and preferences by examining the location the value and the owned quantity of real estate. Even mala- fide intentions may occur.

A lot of land registries are only public for as far as one can prove his concern! And even where it is fully public, lately the discussion grows whether the subject provided these data to the agency in a way that it is allowed to use it for commercial purposes.

In the internet site of one of the companies involved, I read: "Our solutions operate under a proven, comprehensive governance framework and utilize public data for innovative commercial solutions". So, there can be no discussion on what might be their intentions!

The juridical nature of these data has to be very clear when contracting. Who owns them? Who can use them and for what reason? It is all a question of contracts. They surely cannot be drawn up in a messy way.

But who owns the personal data? Is it the state ore the citizen himself, only lending them to the state for one particular purpose? In every case the nature of these rights has to be cleared out before it is possible to draw up contracts.

But there we come to the interest the citizen may have in their privacy. In general public services are only allowed to use data for the reason they were collected. So, It is absolutely necessary that the state is extremely prudent when outsourcing a Land Registry!

It might be interesting not to sell out the data themselves but just the operations. Just by giving the disposition of these data in order to register new transactions and give information out of the system. It also should be possible to allow more than one company to offer these services to the public. In that case concurrence may play a role in favour of the citizen, as well as to quality as to the cost of the service.

All together privatisation is a very challenging opportunity but when considered, it has to be examined case-by-case, taking into account the interest of all stakeholders. In some cases I suppose the outcome will be positive, in others negative!