

Disclaimer: The opinions expressed and arguments employed in this report are solely those of the participants and do not necessarily reflect the official views of the European Commission nor its services.

Expert Panel on Effective Ways of Investing in Health (EXPH)

Hearing on ‘public procurement in healthcare systems’

Brussels, 3 February 2021 (virtual meeting)

Aim and objectives

The Expert Panel on effective ways of investing in health (EXPH) is an interdisciplinary and independent group established by the European Commission in 2012 to provide non-binding independent advice on matters related to effective, accessible and resilient health systems in the form of opinions.

The aim of this hearing was to provide stakeholders with an opportunity to share their views on the draft opinion of the Expert Panel on ‘Public procurement in healthcare systems’. The draft opinion was made available on the Expert Panel’s website prior to the hearing.

The hearing was organised online via Webex, hosted by the Health Policy Platform. 140 participants attended the hearing. Slido was used for live polling in the audience.

Presentation of the draft Opinion

Panel members: Prof. Luigi Siciliani (Chair of the hearing), Prof. Martin McKee, Dr Anna Garcia-Altes (Rapporteurs)

Dr Anna Garcia-Altes presented the main elements of the opinion. The mandate for the opinion included: (a) To identify health sector specific challenges in relation to public procurement. (b) To identify health technology specific challenges (medicines, equipment, medical devices, e-health, services, etc.) in relation to public procurement with a focus on what award criteria beyond “lowest price” should be introduced according to Most Economically Advantageous Tender (MEAT). (c) To analyse to what extent centralised procurement (bringing together several procurers at subnational or national level or between Member States) can be applied to ensure maximum efficiency, also taking account of institutional features (such as the health system’s organisation). (d) To reflect what further EU cooperation can be developed.

Public procurement

This opinion relates to Directives 2014/24/EU, Directive 2014/25/EU, and 2014/23/EU, which provide the framework for public procurement in the EU. It is based on the principles of transparency, equal treatment, and non-discrimination. The EU framework applies the principle

of MEAT, based on price, cost, and the best price-quality ratio and offers a vision for smart, sustainable and inclusive growth.

Health sector specificities in relation to public procurement

Public procurement in the health sector is characterised by monopoly or oligopoly providers, either because intellectual property rights are involved, or because of the market size and regulatory hurdles. High transaction costs are characteristic. Transaction costs are influenced by uncertainty relating to quality (and context), frequency of tendering, and asset specificity of the products involved. This has implications for public procurement: administrative cost, adequate time, corruption, participation by SMEs.

Costing needs to be assessed in the context of the whole life-cycle of the product. Products are often not interoperable, and only available as part of a bundle.

Public procurement is a strategic instrument for achieving government policy goals such as innovation, development of SMEs or sustainable green growth. This requires defined needs, an innovation policy and a long-term strategy, as well as professional guidance, exchange of experience and performance monitoring.

Public procurement can stimulate innovation when certain conditions are met:

- When it expresses a clear and consistent set of needs to be addressed by the innovative effort in a clear contract specification;
- When quality is placed at the centre of the tender;
- When it provides an assured market for early products with uncertain commercial possibilities;
- When it forces contractors to share information and encourages the entry of new competitors so that it stimulates technology diffusion.

Green procurement can be implemented through incorporating sustainability requirements through inclusion and technical specifications, award criteria, and contract performance conditions.

Encouraging SMEs is an explicit objective of the Directive 2014/24/EU; the health sector has a particular interest in promoting this goal.

SMEs face barriers to market entry in public procurement, as regional procurement markets will rarely be sufficient to sustain their growth. National or international partnerships or Regional Foresight exercises can promote SME development.

Health sector challenges

Challenges depend on the type of product that is procured, and fall into three broad categories:

1. Complexity of the transaction;
2. Imbalance of market power between the procurer and the provider on each side of the transaction, especially where factors limit competition;
3. Competing policy objectives.

Cross-cutting considerations

Public procurement is a means to help to achieve improvement in health and responsiveness to the legitimate expectations of users at reasonable cost. Improvements in health need to be measured using patient reported outcome and experiences measures (PREMs, PROMs). Equally, patients and frontline providers should co-produce non-price measures of quality.

Better procurement

Procurement should be professionalized. It requires specialized skills and wider competencies, and a strategic approach. We should also build a knowledge base for health procurement, collect existing knowledge systematically and support a community of practice. Thirdly, the scope for corruption should be reduced, for example by synthesizing evidence and experience in tackling it. Lastly, the transparency of procurement in a crisis should be improved.

What further EU cooperation can be developed?

Cross-border collaboration benefits from economies of scale and efficiency of procurement planning. This is especially useful in the case of small countries or for homogeneous, high-cost, low-volume, or specific products. So far, there have been few such initiatives and therefore the evidence to date on whether this is effective is limited. Nevertheless, the benefits of cross-border collaboration must outweigh costs.

Recommendations

1. Recognize public procurement as a means to achieve the goals of the health care sector, taking into account the interests of actual and potential patients.
2. Increase the use of public procurement to promote wider social, economic, and environmental goals.
3. Professionalize procurement, and recruit, retain, and continuously develop those with the necessary skills and expertise, as well as consolidate knowledge and best practices.
4. Ensure there is repository of evidence, supported by a community of practice, in particular on corruption in health sector procurement.
5. Carry out a comprehensive review of public procurement during the COVID-19 pandemic.
6. Promote cross-border procurement in those circumstances where benefits outweigh costs.

Open discussion: participants' views

MABEL research group, KU Leuven shared research insights on the market introduction of biosimilars. Short term savings can be made using tendering processes, but these can disincentivise competitors over the longer term. There are also some originators favouring tendering practices. The research identified five main areas for optimisation, which were beyond the scope of the discussion. For further information, the research will be published shortly. More market diversity is considered a cornerstone for a more sustainable market. This seems to contradict the draft opinion from the Expert Panel that suggests more consolidation and joint procurement. Also, there should be more criteria assessing a product than only price.

Medtech Europe remarked that one of the key elements of the draft opinion was the challenge to move away from a price only decision making process towards quality and maybe even improved patient outcomes. This would need to be reflected in how the Directive is transposed into national legislation. For example, in the Netherlands, it is not allowed to have price only as a criteria. MedTech Europe suggested including a recommendation to Member States to implement similar approaches when the EU Directive is transposed into national legislation.

On professionalization, MedTech Europe mentioned the practical example of the ‘Value Based Procurement Community of Practice’ in which both procurers and medtech industry representative from across Europe already work together on the development and practical application of Value-Based Procurement focusing on the improvement of patient outcome and the care delivery process.

European Federation of Pharmaceutical Industries and Associations (EFPIA) drew attention to a study on the procurement in the European off-patent biosimilar market. Taking a value-based approach in procurement is the way to reward innovation and ensure value for money in the long term. It would be also important to clarify that managed entry agreements are purchasing contracts and not part of public procurement. EFPIA published a paper on novel payment models which proposes a number of principles on these models.

On cross border procurement for pharmaceuticals, EFPIA recognised that such joint public procurement was complex and it should only be used where it can improve access for patients to treatments. The use of joint public procurement should be proportionate to the needs identified by the participating Member States and limited to situations where purchase and supply of products cannot be ensured as efficiently by other means.

Innova Puglia highlighted that the opinion acknowledges the importance of innovation in public procurement. In innovation processes, the regional authorities can play an important role to define what role public procurement has in innovation. This has to be done before starting procurement processes, as part of the procurement strategy. We need to transit from innovation supply to innovation responsiveness. Highlighted considerations about health and social care.

We would also need to translate value into practice. The value based approach would need to be recognised not only in the award decision but also in contracts, giving it a legal meaning. Innova Puglia also emphasised the importance of the local dimension in public procurement.

The **Alliance for Value in Health** focused on procurement as a strategic tool for system transformation as well as ensuring supply chains and the resilience of the health system. The latest innovative procurement practices drive economically advantageous offerings and it would allow for the promotion of social and environmental principles. The question was how these can make a difference in the award process. A multi-criteria decision analysis would be applicable in this field. Value based approaches are being piloted. Public procurement can help the shift towards value based systems. It would be useful to explore good practices. The Alliance is supportive of the green and sustainability components and there are opportunities to further advance on cross-border collaboration.

The **European Union of Private Hospitals** supported the recommendations. However, as the opinion focused on public sector procurement, it was not so relevant for private hospitals. It would be useful to clarify how private hospitals are concerned as they are part of the system. The possibility of contracting the provision of healthcare would be an important element to mention in the report. Rules on public and private providers with regards to health technology created distortion in the market and there would be scope for harmonisation.

COCIR, the European Trade Association representing the medical imaging, radiotherapy, health ICT and electromedical industries highlighted the need for more evidence and key performance indicators (KPIs) in procurement. They opined that the MEAT model does not apply to capital equipment (scanners etc.) which are purchased via another financing model called managed equipment services. COCIR published a report on KPIs for bundled solutions. With regards to a structural need for interoperability requirements, the governments would need to work out a top-down solution vis-à-vis public procurers to enhance interoperability. Innovative medical technologies are on the rise but they also experience market entry challenges. COCIR believes that further research is needed to assess the value of innovative health solutions. Making green procurement mandatory by legislation was not a good idea as the concept was not mature enough.

The **European Association of Hospital Services** asked about the engagement of healthcare professionals in public procurement processes. There were examples where healthcare professional expertise was called upon in defining requirements or evaluating offers in procurement procedures.

The **European Association of Hospital Pharmacists** supported this view and stressed that hospital pharmacists should be involved in public procurement procedures.

Healthcare without Harm agreed with what was included in the report and would welcome the recommendations that aim to strengthen the framework for public procurement.

Questions and comments from the chat referred to a range of issues including sustainability, the use of lots in public procurement procedures, non-compliant/counterfeit medical products.

Conclusion

Panel members responded to the comments that many of the issues that were highlighted are addressed in the report. The report covers a lot of ground but the discussion on public procurement does not stop here. There are clearly many issues that are important but beyond the mandate of this opinion. The question on healthcare services, for example, was not part of the mandate but the opinion mentions services related to medical technology and products. On cross-border collaboration in procurement, further research would be useful. In medicine purchasing, there is a need for transparency and for a critical review of managed entry agreements but it goes beyond the scope of the report.

The general take-away was that the report was comprehensive and further contributions would be carefully looked at. Stakeholders were invited to submit written comments by 12 February 2021.

Slido poll results

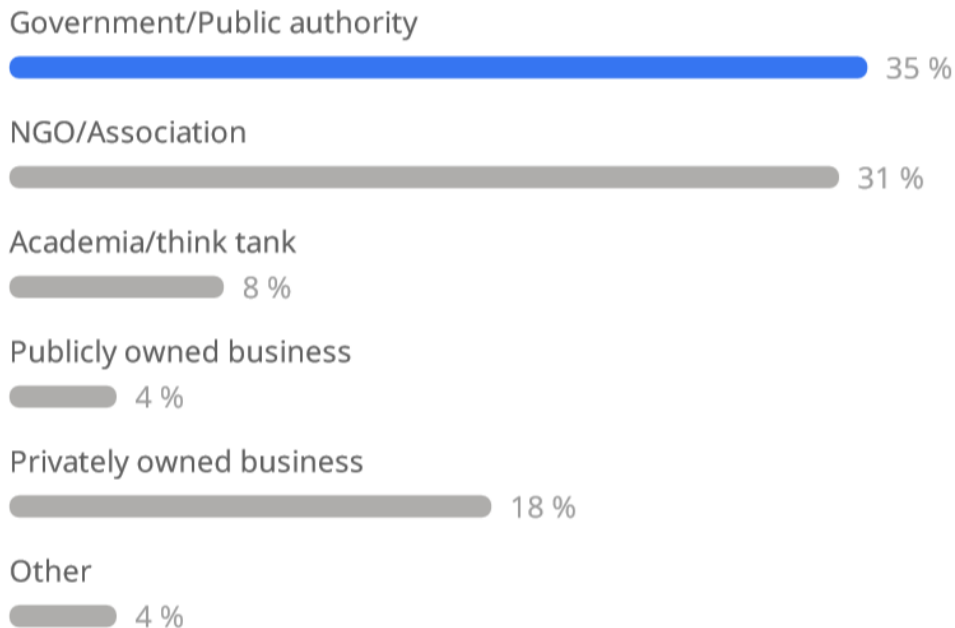
What is your nationality?

045



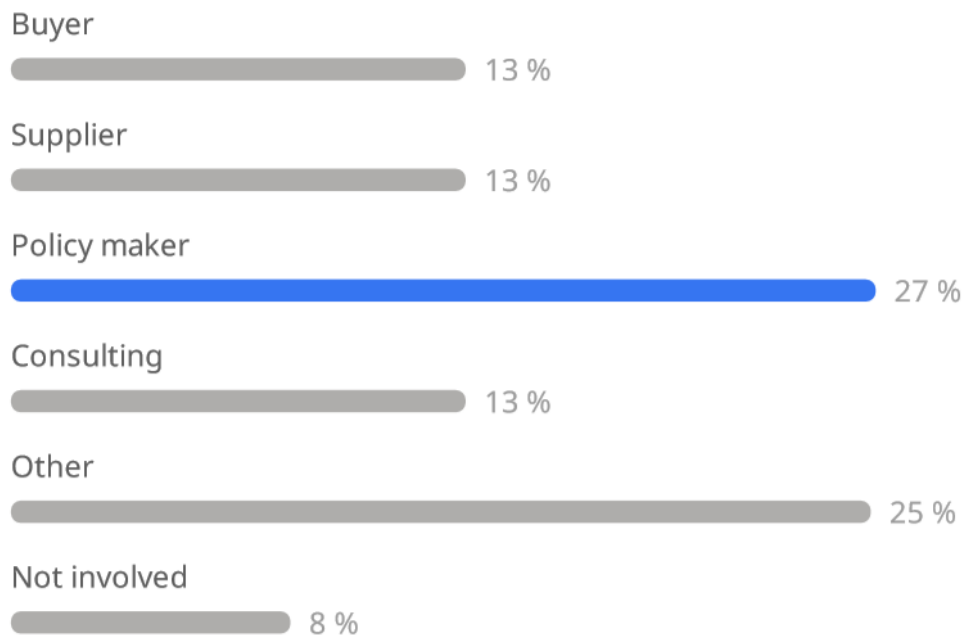
What type of organisation do you represent?

049



What is your involvement in public procurement?

0 5 2



Please rank the recommendations of the Expert Panel in order of importance

0 3 4

(1/2)

