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Advice on the public interest of SI

Final report, version 1.0



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INHOUDSOPGAVE

1	Introduction	2
1.1	Background	2
1.2	Background	2
1.3	Mission statement	3
1.4	Definition of public interest	4
1.5	Procedure	4
1.6	Structure of this report	4
2	Observations	6
2.1	Functions and tasks of SI	6
2.2	Societal impact of e-invoicing	6
2.3	Observations on the main problems of the current situation	7
3	Analysis	11
3.1	Is there a public interest?	11
3.2	Normative framework for the governance of trust frameworks	11
3.3	Normative framework versus observations of SI tasks	12
3.4	Possible scenarios	16
3.5	Necessary steps to be taken	17
4	Conclusions and recommendations	18
4.1	Conclusions	18
4.2	Recommendations	19

1 Introduction

1.1 Background

The board of the Simplerinvoicing (SI) foundation has asked the Ministry of the Interior and Kingdom Relations to exchange ideas about the foundation's future with regard to its organisational structure and the Ministry's possible role in safeguarding major public interests.

SI notes that a number of difficulties have arisen due to (1) the growth of the number of participants, (2) the growing number of electronic invoices,¹ (3) the increasing demands made on the foundation with regard to its role as PEPPOL authority and (4) the associated activities requested of it. There is increasing friction in particular where enforcement is concerned in connection with the foundation's current funding model, which relies entirely on contributions from participants.

Before addressing the question of what shape any government involvement might take, the Ministry wants to determine whether such involvement is justified by a public interest.

1.2 Background

Starting on 18 April 2019, the governments of all European Union Member States must be able to receive and process electronic invoices (Directive 2014/55/EU).² This obligation is also laid down in the Dutch Public Procurement Act (*Aanbestedingswet*).³

In the Netherlands, the Ministry of the Interior and Kingdom Relations is responsible for policy on the government-wide implementation of electronic invoicing.

Scope of the infrastructure

The Dutch government deliberately decided not just to emphasise the B2G domain. As a result, there are 2 routing networks: (1) a public facility for the exchange of messages, hosted by Digipoort, for central government bodies using the Generic Digital Infrastructure (GDI) and (2) a trust framework under private law, Simplerinvoicing (SI), forming the basis of a network of cooperating software and e-invoicing service providers that allows for the direct exchange of e-invoices between ERP software and e-invoicing services.

With its public facility for the exchange of messages on Digipoort, the central government is meeting requirements that go beyond what is required of other layers of government or of the market. This

¹ There were a total of 27,000 transactions in 2015. In 2019, there were already 350,000 transactions by the end of June, with a forecast of a total of 875,000 transactions in 2019.

² Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement, <https://eur-lex.europa.eu/eli/dir/2014/55/oj>

³ Decision of 6 September 2018 to amend the Public Procurement Decree and the Defence and Security Public Procurement Decree in connection with the implementation of Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (*Besluit van 6 september 2018 tot wijziging van het Aanbestedingsbesluit en het Aanbestedingsbesluit op defensie- en veiligheidsgebied in verband met de implementatie van richtlijn 2014/55/EU van het Europees Parlement en de Raad van 16 april 2014 inzake elektronische facturering bij overheidsopdrachten*), <https://zoek.officielebekendmakingen.nl/stb-2018-321.html>⁴ Knowledge Centre for Organisational Issues; Key for Calculating the Public Interest.

facility has also been designated a GDI facility, as has the policy issue of e-invoicing. As such, it is mandatory for all central government organisations to use the message exchange facility on Digipoort. It should be noted that Digipoort is linked to SI through a central government access point.

By opting to design (or commission) infrastructure in which private parties have created e-invoicing solutions in line with existing agreements, the government has made it possible for e-invoicing to be introduced to the B2B domain. This is a much larger domain than B2G in terms of the volume of e-invoices and the potential savings. A benefit of such an infrastructure is that it is inclusive, being suitable for use by freelancers, small and medium-sized enterprises, large corporations and the government. Moreover, this infrastructure is future-proof and might be used in the future for routing other types of electronic messaging besides e-invoicing.

PEPPOL

PEPPOL (Pan-European Public Procurement Online) was set up in 2008 and is used for the secure international transmission of invoices and purchase orders among businesses and among European governments.

Regional PEPPOL authority

The Dutch government is the only EU Member State to have given a fully private foundation authority over the PEPPOL network. In part because of this, the PEPPOL authority in the Netherlands opted for a different name, Simplerinvoicing (SI).

Simplerinvoicing

As a community of e-invoicing, ERP and accounting software providers that use e-invoicing, Simplerinvoicing (SI) forms the core of the private infrastructure of the same name. The SI community consists of 3 organisational layers: Strategy, Tactics and Operations.

SI has outsourced operational management to a private party, management organisation headON BV. SI currently has 40 participants, so it is safe to conclude that it has been successful in linking up the e-invoicing community.

1.3 Mission statement

The Ministry of the Interior and Kingdom Relations asked Dr Theo Hooghiemstra, LL.M., of Hooghiemstra & Partners to use his knowledge and experience, including as a leading public administration specialist and lawyer, coordinator of eHerkenning, member of the Expert Committee for the Supervision of the System of Electronic Access Services, expert director of MedMij and drafter of several governance recommendations on standards and trust frameworks (including for Data Management), to issue authoritative advice answering 2 main questions:

1. Is there a public interest in SI's role as PEPPOL authority and the relevant activities it carries out for the trust frameworks of the same name by which it facilitates the e-invoicing infrastructure of the Netherlands?

2. Is this public interest significant enough to justify or recommend government intervention of any kind regarding the future of the private foundation SI?

1.4 Definition of public interest

Public interests are interests that can benefit society as a whole, for which reason the political sector has a stake in them. The Netherlands Scientific Council for Government Policy (WRR) introduced the concept of the public interest in 2000, signalling that the government should only pursue societal interests if the market or society is unable to do so satisfactorily. If the way the market operates does not contribute or insufficiently contributes to social prosperity, it may be the case that public interests are being compromised. This is referred to as market failure.

The WRR defines the public interest as "complex external effects that cannot be internalised by voluntary private-law transactions due to free-riding behaviour". The public interest requires us to address market failure in a market economy, as market failure reduces social prosperity, and this loss must be compensated for.⁴

1.5 Procedure

This advice has made use of the specific knowledge, experience and networks of Theo Hooghiemstra as coordinator of eHerkenning, member of the Expert Committee for the Supervision of the System of Electronic Access Services, expert director of MedMij and drafter of several governance recommendations on standards and trust frameworks, including the analysis of trust frameworks for data management for the Ministry of the Interior and Kingdom Relations.⁵ The present report has made use of this analysis as a normative framework of values and principles for trust frameworks by which to evaluate the SI trust framework.

Documentation supplied by the client and publicly available relevant documentation have been used to understand the background, developments and current state of affairs regarding e-invoicing, the policy decisions that led to the creation of the SI trust framework and the organisational structure of the current foundation of the same name.

In addition, a number of stakeholders were interviewed to understand the various interests and sub-interests at play around e-invoicing in general and SI in particular.

1.6 Structure of this report

Chapter 2 (Observations) discusses the tasks and functions of SI and describes the problems the various parties experience in practice. Chapter 3 analyses whether there is a public interest, sets out the norms for the governance of trust frameworks, evaluates these norms on the basis of

⁴ Knowledge Centre for Organisational Issues; Key for Calculating the Public Interest.

⁵ <https://rog.pleio.nl/news/view/57899833/analyse-governance-afsprakenstelsels-voor-programma-regie-op-gegevens>

observations about SI's tasks and functions and discusses the urgency of this issue. Lastly, Chapter 4 presents conclusions and recommendations.

2 Observations

2.1 Functions and tasks of SI

SI is a private foundation that performs 3 functions:

1. authority
2. ambassadorship
3. management.

Current tasks of SI

At a minimum, SI's tasks include the following:

- Management of the SI standard in cooperation with STPE;
- PEPPOL Authority;
- Centre of expertise;
- Certifying organisation;
- Enforcing the standards in the trust frameworks;
- Arbitration;
- Representing the interests of participants;
- Promoting SI and the PEPPOL standard.

Management organisation headON BV is in charge of the operational management of SI. There is an SI community, distributed across 3 layers with their corresponding councils. These councils are made up of delegates of participants and service providers:

1. Strategic level – SI Board (Foundation and Supervisory Board), Council of Participants (COP) and headON BV;
2. Tactical level – SI Board (Foundation and Supervisory Board), Council of Participants (COP) and headON BV;
3. Operational level – headON BV and CAB SI (Change Advisory Board).

2.2 Societal impact of e-invoicing

In keeping with European Directive 2014/55/EU, all governments and contracting authorities are required to be able to receive and process e-invoices. To achieve this, it was decided to route e-invoices via a private network. If this network were to fail, all government organisations that have purchasing conditions that require e-invoicing – which includes the central government – would in many cases not be able to receive invoices, or it would at least be difficult for them to do so. This would create a problem of illegality, with suppliers who do business with the government suddenly being unable in many cases to send invoices and receive payment for services they have provided.

Aside from the legal problem this creates, it would cause a problem of creditworthiness for many entrepreneurs who count the government organisation or organisations in question among their main or only customers.

The growing use of e-invoicing also means there is a greater risk of failure, including for businesses that have an e-invoicing solution in place and that have modified their financial processes accordingly. Should the network fail, it will not be easy to quickly revert to the old situation, causing at the very least a delay in payments and denting the creditworthiness of businesses in the Netherlands. E-invoicing potentially has the biggest impact on B2B, in both a positive and a negative sense.

In 2014, in Deloitte's Social cost-benefit analysis⁶ of e-invoicing, it calculated that implementing the guideline would save Dutch businesses over €1 billion each year.

2.3 Observations on the main problems of the current situation

SI has been successful in building a community. This is a valuable achievement that is of great importance to e-invoicing. Further steps are needed, however, for the sustainable continuation of e-invoicing, for making use of opportunities and for meeting European requirements. To clarify what additional measures are needed, we will sum up the main issues identified from the documentation and the various interviews below.

1. Enforcement, supervision and sanctions have been compromised

At its core, this problem – the main problem – is related to the foundation's lack of independence from the partners in the trust framework who are 'under supervision'. The observation that the foundation is wholly dependent on its participants to balance its budget creates a conflict of interest when decisions are needed regarding enforcement or sanctions. After all, expelling a party from the trust framework has a direct impact on the budget, and therefore on the foundation's effectiveness and continued existence. As a result, there is currently a de-facto lack of independent supervision of the trust framework.

2. Insufficient budget and resultant lack of capability

Another serious problem – considered to be urgent by all conversation partners – is that the foundation lacks the budget (or resources received in kind) to perform its tasks. The foundation has 1.7 FTE to perform all of the above-mentioned tasks. This is far too little to do so adequately; as a result, an important share of the tasks are not or barely carried out. It should be noted that the foundation itself has decided to keep contributions low.

⁶ MKBA e-facturieren, *Onderzoek naar de effecten van de richtlijn e-facturieren en verschillende extra scenario's voor het stimuleren van e-facturieren* (Social cost-benefit analysis of e-invoicing: Study of the effects of the e-invoicing guideline and several additional scenarios for stimulating e-invoicing), Deloitte, 2014 <https://www.e-facturieren.info/wp-content/uploads/2-Rapport-MKBA-e-facturieren-v1.01.pdf>

3. Double roles and tasks within the foundation's organisation

First of all, it is striking that SI lacks an independent chair, which other trust frameworks do have.⁷ By 'independent', we mean 'free from personal interests or sub-interests where the effects of the foundation's policy are concerned'. This can create the impression that the chair – out of a personal or commercial sub-interest – could conceivably be prejudiced in dealing with policy issues relating to strategic matters.

When surveying the range of participants in these forums, it is also striking that the separation of powers appears to be inadequate: participants are often active in several or all forums. For example, the director of headON BV also participates in all strategic and tactical meetings as a contracted, executive operational party.

4. Lack of a careful, managed admission process

An admission process is an important safeguard of trust in a trust framework.⁸ In addition to signing an agreement, a prospective participant must demonstrate it meets the requirements established by the trust framework in order to guarantee the framework's reliability and security. However, SI does not have such an admission process.

5. Lack of a security certification requirement

Notably, compared with other trust frameworks,⁹ no information security certification is required of participants (e.g. the ISO27001). This means participants have no guarantee that information security in the SI chain is sufficiently safeguarded.

6. Free-riding behaviour

The absence of a careful, managed admission process and of adequate enforcement, supervision and sanctioning leads to various types of free-riding behaviour. Participants can easily make use of the SI logo without demonstrating on admission, and without the foundation verifying, that they comply with the agreements they are committing to. In this way, SI assumes the improper role of marketing instrument. There is the risk of a mutual lack of trust, or breakdown of trust, regarding the other participants complying with the framework's requirements. This is worrying, as a trust framework is founded on reliability and trust in its reliability.

7. Quality and continuity

The above-mentioned observations have consequences for the quality (security and reliability) of the entire trust framework. This automatically raises the question of what the situation is regarding continuity. Independence and reliability must be safeguarded, and based on my observations, I conclude that SI is currently insufficiently equipped to do so.

⁷ See: <https://rog.pleio.nl/news/view/57899833/analyse-governance-afsprakenstelsels-voor-programma-regie-op-gegevens>

⁸ <https://afsprakenstelsel.etoegang.nl/display/as/Proces+toetreden>

⁹ See: <https://rog.pleio.nl/news/view/57899833/analyse-governance-afsprakenstelsels-voor-programma-regie-op-gegevens>

8. Design flaw in the network's governance

Ultimately, the issues found seem to be due in large part to a design flaw in the network's governance. To a greater or lesser degree, all trust frameworks we at Hooghiemstra & Partners have previously studied have a system of checks and balances, a structure for interoperability and a structure of trust that seeks to ensure that exchanges are secure, diligent and legitimate. On this, see also the BOMOS structure:

<https://www.forumstandaardisatie.nl/sites/bfs/files/proceedings/FS22-10-04%204b%20BOMOS.pdf>.

Naturally, the kind of governance of previously studied frameworks depends on the nature of the framework and the phase of its development. However, a number of generic criteria for successful governance can be identified in most frameworks:

- 1.) Separation of powers: legislative, executive and supervisory;
- 2.) Trust: the governance needs to foster trust among all participants in the framework;
- 3.) Targeted and purposeful: the governance structure must contribute to reaching the goal as efficiently and effectively as possible. To this end, the governance must be purposeful, lean and mean, and decisive;
- 4.) Support base: the governance structure must have enough support to be legitimate and to be able to perform its tasks adequately. It is important, therefore, that the various stakeholders support the governance structure. It is also important for the structure to take relations as they are at a given moment into account and to adapt along with them as required;
- 5.) Situational awareness: there are many related developments that can affect the trust framework or on which its further development depends. In order to take these dependencies into account, the governance should dwell on responsiveness and the extent to which developments can be anticipated and innovations can be made possible. Chain problems must be identified, and the idea that is formed of them must be clear and accurate.

9. The risk of not meeting or anticipating European requirements and worldwide developments

As of November 2019, participants in PEPPOL need to migrate the protocol from level AS2 to level AS4. It is uncertain whether all participants in SI will comply with this; there is no control mechanism in place.

Participants in PEPPOL are required to delegate or mandate suitable persons for this 4 times a year. Note that Australia and New Zealand will also be taking PEPPOL into use.

Compared with other countries, the role of the Dutch government is limited. Some countries are more advanced than the Netherlands in the use of e-invoicing for digital signatures and for preventing VAT fraud.

It is unclear whether the Netherlands still meets the European PEPPOL requirements since communication protocol AS4 came into force on 1 November 2019.

Interim conclusion

Free-riding behaviour takes place at SI. The WRR considers such behaviour to be a key characteristic of market failure and a reason why there is a public interest. An independent system of checks and balances is also lacking, something which other trust frameworks of public interest do have. In addition, the governance only partially meets the generic criteria for successful trust frameworks of public interest. Chapter 3 will elaborate on this.

Note that a trust framework being of public interest says nothing about the way in which it is organised. There are trust frameworks, for example, that are privatised to a great degree.

The risk of free-riding behaviour and the lack of a system of checks and balances is that, in case of failure, this will not concern an isolated case and the fallout will grow in proportion to the growing number of users of e-invoicing. E-invoicing is expanding steadily, having been facilitated across all branches of government and being mandatory according to the purchase conditions of more and more branches of government. This has potential consequences of a legal nature (illegalities) as well as of a macroeconomic nature (implosion of creditworthiness of businesses, and bankruptcy of small and medium-sized businesses that provide services to the government).

Another risk of the limited role of the government is that the Netherlands will no longer meet European PEPPOL requirements and, compared with some other countries, will insufficiently anticipate the opportunities of e-invoicing for such matters as digital signatures and the prevention of VAT and other fraud.

3 Analysis

3.1 Is there a public interest?

The previous chapter showed, based on the interviews and documentation, that there is free-riding behaviour around SI, as well as a risk that this is unpreventable. Free-riding behaviour is a key characteristic of market failure. The WRR defines the public interest as "complex external effects that cannot be internalised by voluntary private-law transactions due to free-riding behaviour".

The public interest requires that market failure be addressed in a market economy when it causes a downturn in social prosperity that needs to be compensated for. About 1.1 billion invoices are sent and received in the Netherlands on a yearly basis. Businesses and authorities benefit from the advantages associated with e-invoicing. These include immediate financial savings (such as on postage, paper and printing), time savings (less labour, fewer errors), improved services (faster processing, direct detection of errors), more innovations (including new forms of financing such as supply chain finance) and the possibility of faster payment or shorter payment terms. In 2014, in Deloitte's Social cost-benefit analysis of e-invoicing, it calculated that implementing the guideline would save Dutch businesses over €1 billion each year.¹⁰ The interviews, the said analysis by Deloitte, the NL DIGIbeter study Digital Government Agenda (*Agenda Digitale Overheid*, 2019) and other documents allow for the conclusion that SI is making an important contribution to social prosperity and, notably, has much more potential to cause social prosperity to keep growing.

3.2 Normative framework for the governance of trust frameworks

The analysis of trust frameworks with a public interest that we, in consultation with the client, chose as a normative framework for our study¹¹ deals with the question of what can be learned over the years from other national or international trust frameworks in order to strike the right public/private balance. How can the right balance between public and private interests be achieved, and how can public interests be safeguarded in the case of a private framework?

The governance of the various frameworks depends on their nature, the role of the government and the phase of development the framework is in. However, a number of generic criteria for successful governance can be identified in most frameworks:

- 1.) Separation of powers: legislative, executive and supervisory;
- 2.) Trust: the governance needs to create trust among all participants in the framework;
- 3.) Targeted and purposeful: the governance structure must contribute to reaching the goal as efficiently and effectively as possible. To this end, the governance must be purposeful, lean and mean, and decisive;
- 4.) Support base: the governance structure must have enough support to be legitimate and to be able to perform its tasks adequately. For this, it is important that the various stakeholders

¹⁰ *Parliamentary papers II*, 2016/17, 34 780, No. 3, p. 4.

¹¹ See <https://rog.pleio.nl/news/view/57899833/analyse-governance-afsprakenstelsels-voor-programma-regie-op-gegevens>

support the governance structure. It is also important for the structure to take relations as they are at a given moment into account and to adapt along with them as required;

- 5.) Situational awareness: there are many related developments that can affect the trust framework or on which its further development depends. In order to take these dependencies into account, the governance should dwell on responsiveness and the extent to which developments can be anticipated and innovations can be made possible. Chain problems must be identified, and the idea that is formed of them must be clear and accurate.

There are several relevant aspects to take into account when elaborating governance criteria. Good governance:

- Supervises and contributes to the achievement of the higher societal goal;
- Facilitates dialogue between representatives of the parties involved, so that they can provide direction together;
- Records tasks, competences and responsibilities in a clear and transparent way;
- Clearly records what does and does not fall under the responsibility of the governance;
- Safeguards the public interest of the framework as a whole. We already noted in the previous section that there is a public interest in the case of SI;
- Is decisive at every management level by providing enough space for decision-making and initiative/innovation;
- Is open and based on a cooperation model. The consultation structure is transparent, future-proof and scalable, as well as being workable through delegation by mandate;
- Complies with competition law, data protection law and other laws;
- Service providers can join the framework based on objective criteria and processes;
- Safeguards independence and transparency on accession, in its sanctions policy and in conflict resolution, and ensures adequate and independent checks and supervision;
- Is equipped to respond to and solve future security incidents and other emergencies;
- Has escalation procedures;
- Ensures that agreements continue to be in line with practice and can be kept;
- Ensures clear management of the framework (including on accession to the framework, qualifications, supervision and enforcement);
- Is understandable and transparent to all stakeholders;
- Arranges for resources to reach common goals where needed and achievable.

3.3 Normative framework versus observations of SI tasks

We confront the above normative framework with the implementation of the SI tasks observed in 2.1:

1) Management of the SI standard in cooperation with STPE

With only 1.7 FTE available for all tasks, the work force is insufficient for the general management of the SI standard. Below, we set out more specifically which tasks are currently not being carried out to the extent and in the way they should be. Appendix D includes an inventory of the SI foundation showing that the foundation believes it needs 5.8 FTE to carry out its tasks. According to SI's own calculations, it is short 3.2 FTE.

2) PEPPOL Authority

With today's knowledge, OpenPEPPOL would no longer accept the request the Ministry of Economic Affairs made at the time regarding SI as the PEPPOL authority. In 2013, the Ministry strongly signalled that this was the only practicable scenario at that time. It furthermore indicated that it would cooperate with SI and arrange for its funding. The Ministry – now the Ministry of Economic Affairs and Climate Policy – did make these arrangements at the time, on the agreement that SI would eventually need to be able to support itself. Currently, there is hardly any government funding, and there are not enough resources. OpenPEPPOL also sees a number of important compliance issues. The message is clear: they are not happy about the current situation. SI is doing its best, but it does not have enough of a mandate or enough resources. This problem has become much more acute in the last year and a half in particular. OpenPEPPOL is encouraging the Ministry to intervene.

The main issues as seen by OpenPEPPOL are:

- SI does not support PEPPOL BIS, only SI UBL. This is not conducive to interoperability.
- Within SI, there is currently no requirement to implement message level response (MLR). As a result, end users currently cannot trace the status of messages they have sent.
- Validation rules are customised.

Other access points in the PEPPOL network complain about SI compliance. It should be noted that overall compliance with PEPPOL is also a challenge!

It is especially of importance that there should be an authority that also has a mandate and can act in accordance with applicable national legislation and regulations. The construction currently in place takes the needs of all members into account but does not bear responsibility for meeting national interests and regulations. This set-up also gives SI a very weak position with regard to its members. This makes SI vulnerable, as the influence of private companies carries the risk that they will act in their own interest and will not necessarily serve the interest of compliance.

While there are other countries that have also outsourced implementation/governance to a private party, the role of authority is vested in the government.

According to OpenPEPPOL, SI acts like an island. Belgium, Germany, the Nordic countries and the UK frequently consult with each other and have a common objective. The practice at SI is far removed from this ambition.

In the coming period, all PEPPOL agreements need to be updated, which gives rise to concerns.

The implementation of PEPPOL must be improved, which would increase cross-border interoperability. Currently, as indicated, there is a ‘Dutch island’.

It can be observed here that these concerns and this decline are mainly of the past year and a half; previously, SI led to many positive things as well.

With regard to the future, OpenPEPPOL believes the update to the agreement will make it easier to serve other domains too. The next version of the network will also deal with:

- Pre-award and post-award;
- Agreement processes.

A review of the statutes has increased the possibilities of scalability of the network. Pilots are being carried out in these fields:

- Use of PEPPOL e-government purposes;
- Logistics information.

3. Centre of expertise

The telephone number for support and information was discontinued as of 1 July. SI provides support via a dedicated email address. Third parties who do not have an Access Point themselves no longer receive support. They will need to turn to their own Access Point with any questions and/or issues. If they do wish to consult SI, they are required to take out a membership with SI. The centre of expertise takes up a large share of the available capacity. The capacity that is currently available falls far short of what is required. Up to 1 June 2019, 168 calls and 482 emails had been received.

4. Certification

We found that participants do not need to meet information security certification requirements that participants in other trust frameworks do need to comply with. In addition, we identified enforcement issues; see the following point on this. In exchange for a facilitating role where needed, the government needs to set certification requirements for SI.

5. Enforcing the trust framework’s standards

In the previous chapter, we found that enforcement, supervision and sanctioning were compromised by the fact that the foundation is not independent from the trust framework participants ‘under supervision’. The observation that the foundation is wholly dependent on its participants to balance its budget creates a conflict of interest when decisions are needed regarding enforcement or sanctions. The government will have to facilitate SI in its enforcement task, whether in kind or by other means.

6. Services on the basis of objective criteria and processes

There should be objective criteria and processes for service providers to join the framework; however, there is no accession process. In addition, there are no checks based on samples or regular inspections when a service provider joins the framework.

7. Arbitration

As far as we are aware, the arbitration task is not yet being carried out.

8. Representing the interests of participants

While the interests of participants are being represented, this does not happen independently.

9. Promoting SI and the PEPPOL standard

Due to a lack of capacity, SI is not involved in the promotion of SI and the PEPPOL standard. As a result, SI has hardly made any contributions to B2B. It is not clear at first glance, for example, what Simplerinvoicing stands for. A campaign did take place once, but not for the greater public. It is also true that SI is not a brand for the greater public. It is aimed at a select target group. It should also be noted that the management board and the administrator use their 'own' email addresses rather than an @simplerinvoicing.nl domain name, which does not contribute to the promotion of SI.

Interim conclusion

Looking at the generic criteria listed for most trust frameworks as preconditions for successful governance, we can conclude the following:

- There is insufficient separation of powers. In particular, the lack of an independent supervisory authority creates a significant risk in terms of the framework's reliability. The insufficient separation of 'legislative' and 'executive' powers also creates a situation that is not transparent. There is no independent management board and/or supervisor.
- Due to the above, the required trust in governance is eroding among all those involved in the framework. It is essential that this trust be restored as soon as possible.
- As a result, there is insufficient support for the existing governance structure, while support is crucial to the legitimacy of this structure and to the ability to perform tasks properly.
- The lack of capacity also makes it hard to give adequate expression to the criterion of situational awareness. These conditions prevent the anticipation of developments and innovations, as well as the identification of chain problems.
- Some tasks, such as the help desk function and promotion, exist more in theory than in practice.

When looking at the further elaboration of governance criteria (without striving to be exhaustive), we can draw the following conclusions about SI:

- The governance should safeguard the public interest of the framework as a whole. However, as noted in the previous section, the public interest that exists in the case of SI is not being addressed satisfactorily due to the current governance structure and the lack of enforcement.
- The governance should be open and should be based on a cooperative model. The consultation structure is transparent, future-proof, scalable and workable. Several interviews indicate that parties are not always clear about what has been agreed and that agreements are not always recorded and, as a result, not always carried out.
- Service providers can join the framework on the basis of objective criteria and processes. As indicated, the accession process and the requirements for being allowed to use the SI logo are unsatisfactory.
- Safeguards independence and transparency on accession, in its sanctions policy and in conflict resolution and ensures adequate and independent checks and supervision; see above, inadequately ensured.
- Is equipped to respond to and solve future security incidents and other emergencies; this is unclear, but since there are no certification requirements for participants with regard to security, this is questionable;
- Has escalation procedures. We have not found any.
- Ensures clear management of the framework (including on accession to the framework, qualifications, supervision and enforcement). Currently, this is insufficiently safeguarded.

3.4 Possible scenarios

The scenario analysis forming part of the analysis of trust frameworks that we mentioned above a number of times and that formed the basis of the present study yielded the following scenarios:



Appendix C includes complete scenarios that we carried out previously for the Data Management programme of the Ministry of the Interior and Kingdom Relations as part of the analysis of trust framework governance. These scenarios further elaborate the models.

Based on the interviews and documentation, we believe SI can be placed in the shipowner model. As shipowner, the government can concede PEPPOL authority to a market actor or private foundation or remove such authority from this party. The conclusion is that, given the current definition of roles in the shipowner model, it is desirable for the government to increase its facilitation of SI. The current definition of roles should be examined critically, and in view of the observations and interim conclusions, it should be considered whether a different model – such as the navigator or harbour master model – might be more future-proof. As there has been found to be market failure – an example being free-riding behaviour – a more proactive attitude from the government is desirable to safeguard the public interest.

In terms of the government's role, the scenario analysis points at the following 3 'no regrets':

1. Ensure a separation of powers: development, implementation and supervision;
2. Ensure stability: uniformity of vision, financing and regulation;
3. Ensure trust: transparency and awareness.

3.5 Necessary steps to be taken

Given that enforcement, supervision and sanctioning have been found to be compromised, with the ensuing risk that the independence, security, reliability and continuity of SI cannot be guaranteed, it is urgent that tasks that SI cannot currently perform or cannot perform adequately be publicly facilitated in a way that does not disrupt the market. This could include assistance with independent supervision, audits and certification, or legal assistance and assistance with international representation. This will give SI the necessary capability to meet the requirements of a framework of public interest, to meet international requirements and to perform other tasks proper to SI.

4 Conclusions and recommendations

4.1 Conclusions

Free-riding behaviour takes place at SI. According to the WRR, free-riding behaviour is a key characteristic of market failure and a reason why there is a public interest.

An independent system of checks and balances, such as exists in other trust frameworks of public interest, is largely absent at SI.

As far as governance is concerned, in terms of the governance scenarios listed in 3.4, SI's current role can be called that of shipowner. It would be desirable to have a more future-proof definition of roles for the governance of SI. Given the observations and conclusions, a different model – such as the navigator or harbour master model – might be a more suitable governance model for SI. This requires an additional facilitative effort on the part of the government.

It can be concluded that there is a design flaw in SI's governance and revenue model. This makes it impossible to enforce the trust framework independently and to supervise it, which damages trust in the framework and its reliability.

The governance only partially and insufficiently meets the generic criteria for successful trust frameworks of public interest.

The risk of free-riding behaviour and the lack of a system of checks and balances is that, in case of failure, this will not concern an isolated case and the fallout will grow in proportion to the growing number of users of e-invoicing. E-invoicing is expanding steadily, having been facilitated across all branches of government and being mandatory according to the purchase conditions of more and more branches of government. This has potential consequences of a legal nature (illegalities) as well as of a macroeconomic nature (implosion of creditworthiness of businesses and bankruptcy of small and medium-sized businesses that provide services to the government).

A risk of the limited or overly limited role of the government in e-invoicing is that the Netherlands will no longer meet the European PEPPOL requirements, will become an island within Europe and, compared with other countries, will insufficiently anticipate the opportunities of e-invoicing for such matters as digital signatures and the prevention of VAT and other fraud.

On the basis of the interviews and the documentation studied, it can be concluded that all parties involved argue for the expansion of e-invoicing and that the Ministry of the Interior and Kingdom Relations now also seeks to expand e-invoicing, as set out for instance in the Digital Agenda (NL DIGIbeter) it presented to Parliament.

In the short term, there is no realistic alternative to the network and infrastructure affiliated with SI or PEPPOL. PEPPOL is increasingly being used around the world. PEPPOL can, however, be an alternative to SI and advocates intervention in SI to ensure that it does not further isolate itself from the PEPPOL community, as well as to prevent it from no longer meeting the PEPPOL requirements.

The added value of SI and PEPPOL is high, as it facilitates increased use by the government (local authorities and the central government via Digipoort) and, especially, e-invoicing among businesses. The many studies undertaken have shown e-invoicing to have great added value for B2B.

Main conclusions:

1. The government's current role involves observing from a distance and intervening if the public interest requires it.
2. The interviews and documentation have shown that there is a public interest in the case of SI, especially in view of free-riding behaviour by SI participants and associated market failure. In addition, OpenPEPPOL is pointing out that the Netherlands insufficiently addresses the public interest around the PEPPOL authority.
3. In view of this, the government taking a proactive stance towards SI and accepting the corresponding responsibility to equip SI with adequate resources, supervision and enforcement of security and reliability is legitimate and necessary.
4. Given the current situation, the government should also examine its own role in order to prevent this kind of situation occurring in the future.
5. We recommend that the government work towards a role in which it at least facilitates a structure of trust for SI.

4.2 Recommendations

1. Adapt the governance of the SI framework in view of the increasing vitality of the infrastructure, which is becoming increasingly important in proportion to the growth of e-invoicing.
2. Adapt the government's role in SI governance from a role in which the government observes from a distance and intervenes when the public interest requires it to a role in which the government facilitates SI's structure of trust. Start on this soon in view of the urgency.

APPENDIX A: List of persons interviewed

Interviewee	Role	Date
Justin de Jager	Senior policy officer, Information Society and the Government, Ministry of the Interior and Kingdom Relations	20 June 2019
Gé Linssen	Deputy director, Ministry of the Interior and Kingdom Relations	21 June 2019
Jörgen Hensgens	Chairman of SI & managing director of Beurtvaartadres	28 June 2019
Michiel Dietvorst	Chair of SI's Supervisory Board & founder of Pridea	28 June 2019
Erwin Kaats	Architect, Logius, Centre for Standards	3 July 2019
Güldeniz Özdemir Isik	Senior adviser, Logius, Centre for Standards	3 July 2019
Erwin van Gorkum	Programme manager, Rijksinkoop digitalisation policy, Ministry of the Interior and Kingdom Relations	5 July 2019
Raymond Dijkstra	Business consultant, e-Procurement and e-Invoicing, Logius	8 July 2019
Henk van Koeverden	Board member of SI, chair of e-invoicing standardisation platform, CEO of trade!nterop	10 July 2019
Johan Schaeffer	Solution Director, eConnect	12 July 2019
Rogier de Boer	Programme manager, <i>Data Delen</i> (Sharing Data), Ministry of Economic Affairs and Climate Policy.	15 July 2019
Jan Sundeln and Arjan Slood	CEO and VP, Business Development, TIE Kinetix	1 August 2019
André Hoddevik and Lefteris Leontaridis	Secretary General of OpenPEPPOL and ICT architect at OpenPEPPOL	4 September 2019

APPENDIX B: Documentation consulted

No.	
1	Deloitte report, MKBA e-factureren, Onderzoek naar de effecten van de richtlijn e-factureren en verschillende extra scenario's voor het stimuleren van e-factureren (Social cost-benefit analysis of e-invoicing: Study of the effects of the e-invoicing guideline and several additional scenarios for stimulating e-invoicing), 19 November 2019 (commissioned by the Ministry of Economic Affairs and Climate Policy).
2	VKA report, <i>e-factureren en infrastructuur, Scenario-onderzoek 2017-2020</i> (e-invoicing and infrastructure: Study of Scenarios 2017-2020), 20 July 2017, version 1.0 (commissioned by the Ministry of Economic Affairs and Climate Policy).
3	Netherlands Organisation for Applied Scientific Research (TNO) report, <i>Onderzoek e-Facturatie</i> (Study of e-Invoicing), 23 December 2014 (commissioned by the Netherlands Standardisation Forum).
4	Social and Economic Council (SER) recommendation, <i>Overheid én markt; het resultaat telt</i> (The government as well as the market; it's the outcome that matters).
5	Knowledge Centre for Organisational Issues; Key for Calculating the Public Interest.
6	NL DIGIbeter, <i>Agenda Digitale Overheid</i> (Digital Government Agenda), 2019.
7	<i>Parliamentary Papers II 2018/19</i> , 26 643, No. 621.
8	Decree of 5 July 2018 laying down the date of entry into force of the Act of 20 December 2017, amending the Public Procurement Act 2012 and the Defence and Security Public Procurement Act in connection with the implementation of Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (Besluit van 5 juli 2018 tot vaststelling van het tijdstip van inwerkingtreding van de Wet van 20 december 2017, houdende wijziging van de Aanbestedingswet 2012 en de Aanbestedingswet op defensie- en veiligheidsgebied in verband met de implementatie van richtlijn 2014/55/EU van het Europees Parlement en de Raad van 16 april 2014 inzake elektronische facturering bij overheidsopdrachten), Bulletin of Acts and Decrees, 216, 2018.
9	Decision of 6 September 2018 to amend the Public Procurement Decree and the Defence and Security Public Procurement Decree in connection with the implementation of Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (<i>Besluit van 6 september 2018 tot wijziging van het Aanbestedingsbesluit en het Aanbestedingsbesluit op defensie- en veiligheidsgebied in verband met de implementatie van richtlijn 2014/55/EU van het Europees Parlement en de Raad van</i>

	<i>16 april 2014 inzake elektronische facturering bij overheidsopdrachten</i>), Bulletin of Acts and Decrees, 321, 2018.
10	<i>Nulmeting BOMOS2i, Beheer Simplerinvoicing (SI-UBL 2.0)</i> (BOMOS2i Baseline Measurement, Operational Management of Simplerinvoicing (SI-UBL-2.0)). Logius, Centre for Standards, 24 April 2019.
11	Sketch of the international landscape of eInvoicing – 2018 TNO
12	BOMOS structure: https://www.forumstandaardisatie.nl/sites/bfs/files/proceedings/FS22-10-04%204b%20BOMOS.pdf
13	PBLQ and Hooghiemstra & Partners, <i>Analyse Governance afsprakenstelsels voor Programma Regie op Gegevens</i> (Analysis of the Governance of Trust Frameworks for the Data Management Programme), 3 March 2019, see https://rog.pleio.nl/news/view/57899833/analyse-governance-afsprakenstelsels-voor-programma-regie-op-gegevens
14	Roadmap for Real Time Economy and Mydata for Europe, discussion paper, Bo Harald, Republic of Estonia.

APPENDIX C: Data management report – scenarios

To explain the scenario model, this appendix includes Chapter 3 from the report by PBLQ and Hooghiemstra & Partners, ‘Analysis of the Governance of Trust Frameworks for the Data Management Programme’. For the full report, see:

<https://rog.pleio.nl/news/view/57899833/analyse-governance-afsprakenstelsels-voor-programma-regie-op-gegevens>.

Chapter 3 Scenarios

This chapter sets out the scenarios regarding the way in which governance for the Data Management framework can be established. We elaborate a number of scenarios that the interviews and documentary research suggest would be possible. We then test these against possible measures and score each scenario, thus clarifying which measures can be considered to be ‘no regret’ measures or are otherwise either recommended or advised against. The documentation of Data Management considers the below development to be conceivable.



Below, we will develop scenarios for the governance of Data Management according to the system of Jan Nekkers (2018). The appendix presents a rationale identifying the main actors, developments, trends, uncertainties, high-impact events and risks. The content was created on the basis of the interviews and the documentation.

Scenarios

This scenario analysis distinguishes 2 key uncertainties:

Has the government adopted a **proactive** or a **reactive** attitude with regard to persona data management? A proactive government takes the initiative to achieve a trust framework; a reactive government does not.

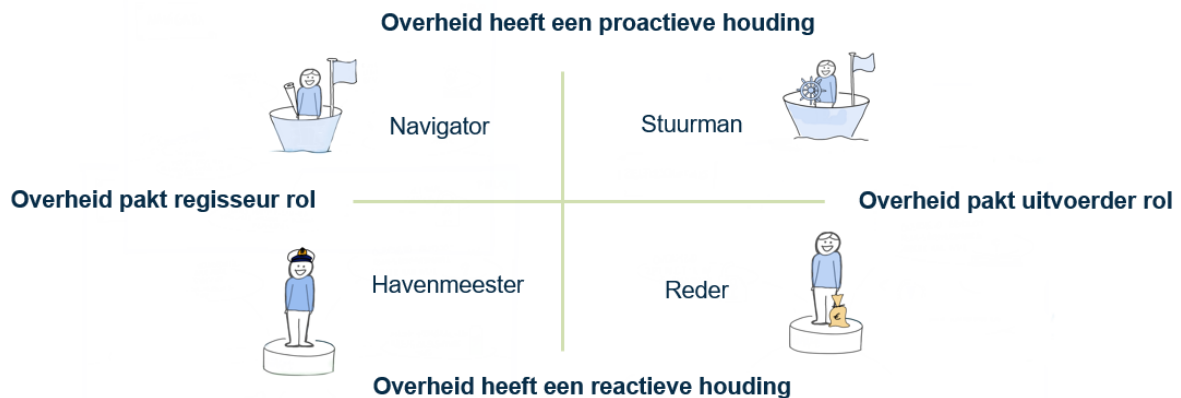
The government has a reactive attitude: it follows market developments and carries out minimal tasks such as essential supervision.

The government has a proactive attitude: it acts on the basis of a uniform vision and has the required knowledge, provides guidance accordingly and sees to all necessary preconditions to make a success of PDMs, such as making data available and identity management.

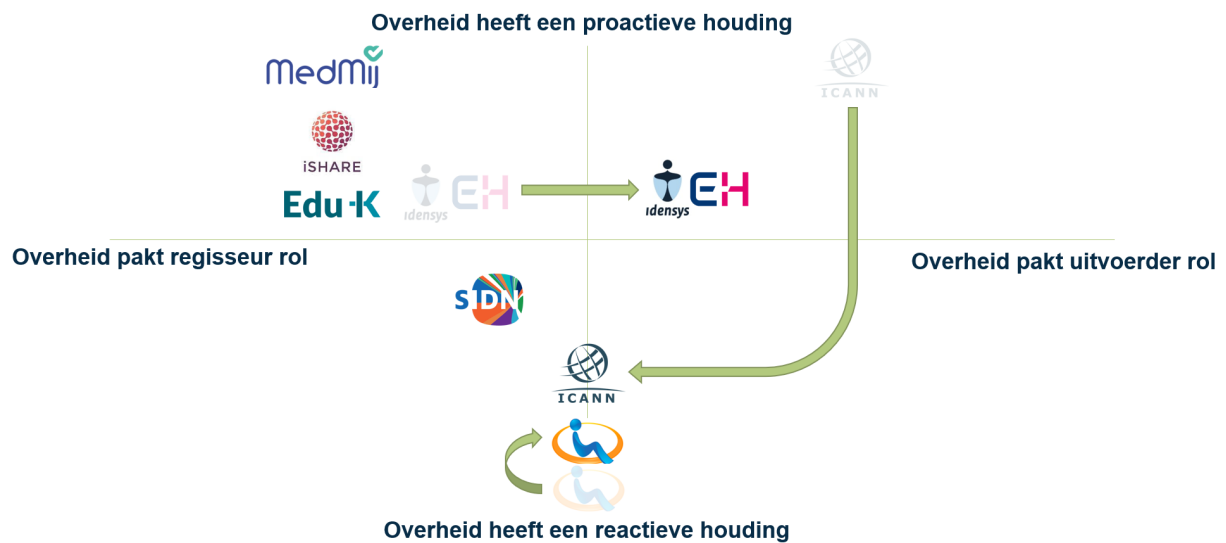
Has the government adopted an **executive** or a **directing** role with regard to persona data management? An executive government takes the initiative to deal with all activities required to set up and maintain a trust framework. A directing government makes these activities happen by arranging for other actors and, optionally, facilitating them.

The government adopts an executive role: it takes ownership and occupies itself with the content and development of the framework. The government itself offers services.

The government adopts a directing role: it sets frameworks, stimulates and facilitates.



These 2 uncertainties are represented in the coordinate system shown below. We have positioned the examined trust frameworks in the coordinate system. As is shown, SIDN, ICANN and Qiy are independent of the government. The other frameworks were set up through a proactive government role. An important distinction is that the government took a more executive role in the further development of *eHerkenning* and *Idensys*, whereas it had more of a directing role in the other frameworks.



Shifts can also be observed. For ICANN, Qiy and *eHerkenning*/Idensys, an asterisk (*) and a transparent logo indicate the starting position of the trust framework. ICANN began at the top left: it was set up by an active government in an executive role. With *eHerkenning*, the government initially had a directing role, but this has since changed to an executive role. Qiy, on the other hand, began with the active role of a market actor; financial support from the government followed later. The eventual choice was for a neutral foundation that all parties can affiliate their own legal form with, such as DigitalMe BV at present. However, government organisations can also join the neutral Qiy Foundation. Qiy’s current governance structure could serve as an example for PDM.

Driving forces

We have taken the 20 above-mentioned developments and trends and inferred 5 driving forces seen in every scenario. They are:

1. Need for knowledge and a detailed government vision;
2. Need for transparency;
3. Ever increasing technological possibilities;
4. Growing power of tech giants;
5. Raising information awareness.

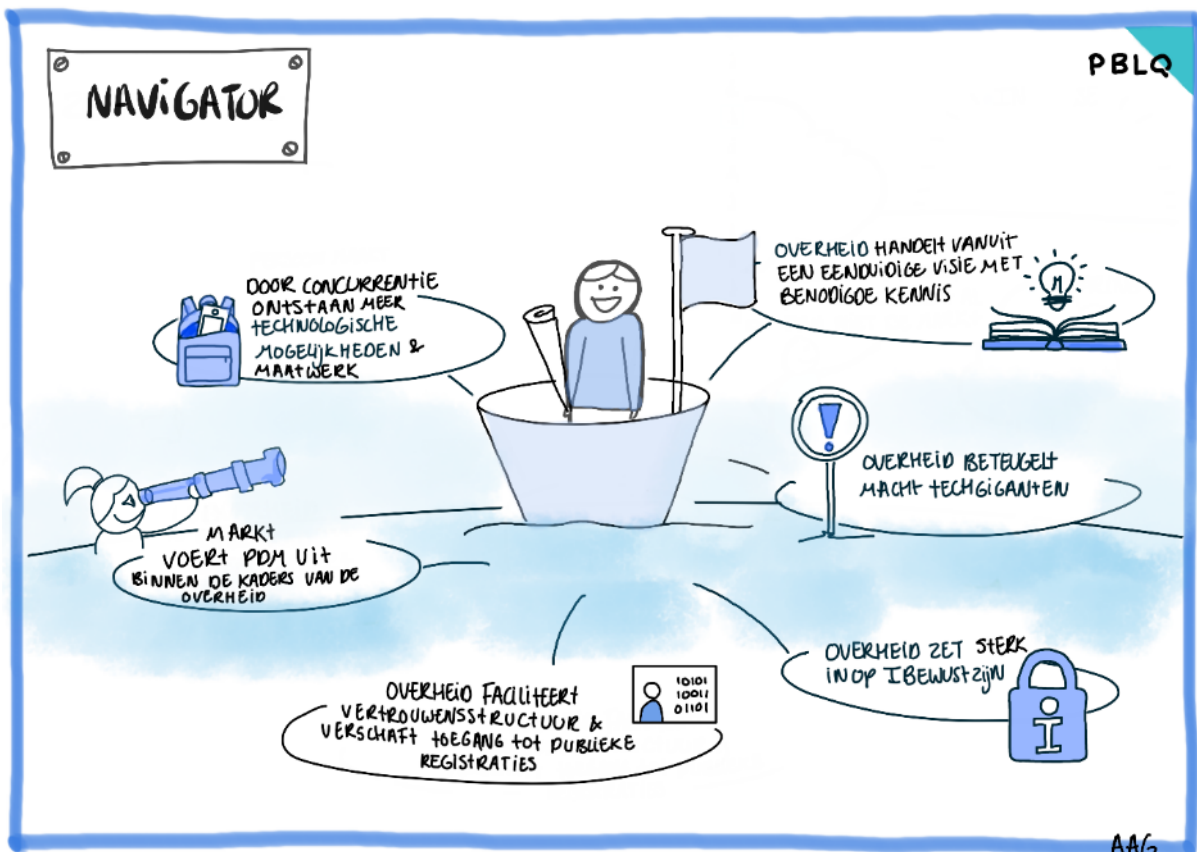
Quadrants

We have elaborated the 4 quadrants below, looking at what influence the outcome of the core uncertainties has on the driving forces.



The 4 above-mentioned quadrants are elaborated below.

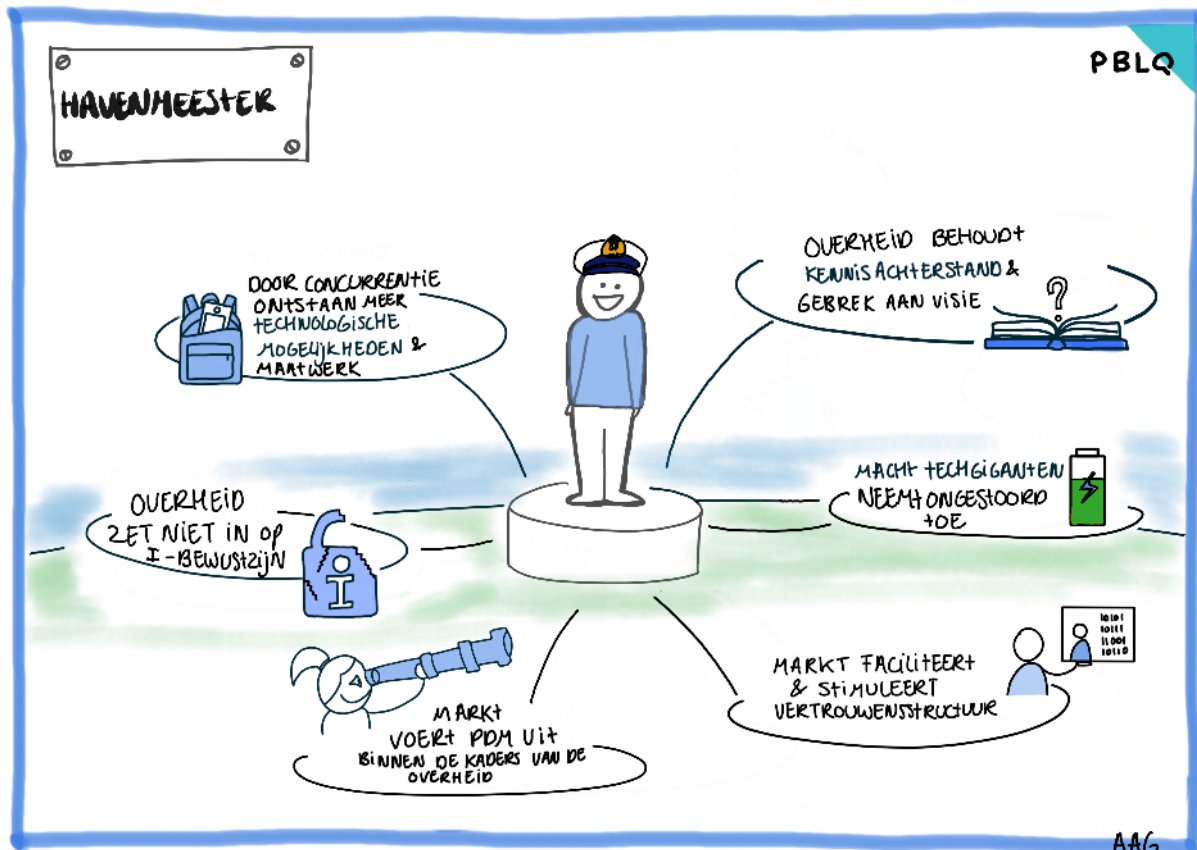
Navigator (proactive and directing government)



The government has a proactive attitude: it acts on the basis of a uniform vision and has the required knowledge, provides guidance accordingly and sees to all necessary preconditions to make a success of PDMs, such as making data available and identity management.

The government adopts a directing role: it sets frameworks, stimulates and facilitates.

Harbour master (reactive and directing government)



The government adopts a directing role: it sets frameworks, stimulates and facilitates.

The government has a reactive attitude: it follows market developments and carries out minimal tasks such as essential supervision.

APPENDIX D: Inventory of FTE's required by the SI foundation

	FTE 2018	FTE Budget 2019	FTE required 2019
Community management			
Support from participants	0.3	0.2	0.3
Market support	0.2	0.2	0.5
STPE Zendesk market	0.2	0.1	0.2
STPE support	0.2	0.1	0.2
Online, websites	0.2	0.1	0.5
Stakeholder communication	0.3	0.3	0.3
Stakeholder management	0.3	0.2	0.3
Support for boards	0.1	0.1	0.1
Meetings	0.1	0.1	0.1
Preparing for meetings	0.1	0.1	0.1
	2	1.5	2.6
Technical management			
Support from participants	0.2	0.1	0.7
Onboarding	0.1	0.1	0.2
Technical documentation	0.2	0.1	0.3
	0.5	0.3	1.2
PEPPOL governance			
Working groups	0.3	0.1	0.5
PEPPOL Authority communication	0.1	0.1	0.5
Agreement Review project	0.1	0	0.5
	0.5	0.2	1.5
Enforcement			
PEPPOL	0	0	0.2
SI	0	0	0.3
	0	0	0.5
Total	3	2	5.8
Deviation			3.8 FTEs

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