This is a new section of the Public-Private Partnership Resource Center website and is currently in draft form. Your feedback is welcome: If you would like to comment on the content of this section of the website or if you have suggestions for links or materials that could be included please contact us at ppp@worldbank.org.

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Assessing Readiness of Enabling Environment to Support CVC

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On this page: *Find the typical challenges faced by government and Project Owners when attempting to apply Commercial Value Capture (CVC). Read more below, visit the Guidelines on Innovative Revenues for Infrastructure section or the Content Outline.*

CVC is easier to implement and will be more impactful under a supportive policy, legal and institutional framework . This section identifies the typical challenges faced by governments and Project Owners when applying CVC. It provides recommendations to address the challenges and increase policy, legal and institutional readiness. It shows how to prioritize CVC opportunities that can be implemented in the existing frameworks as shown in Table 4. This exercise can be applied for both program-level assessment (enabling environment for applying CVC across a portfolio of projects) and project-level assessment (enabling environment for CVC opportunities in a project).[1]

Table 4: Typical policy, legal and institutional challenges and recommendations to address them

Typical Challenges	Recommendations
Policy Readiness	

Typical Challenges	Recommendations
• Lack of clear understanding of CVC and its potential to help reduce fiscal commitments or liabilities (See Box 6). • Lack of clear policy guidance for Project Owners to fully consider CVC at the project level. • Lack of knowledge and skills to consider CVC opportunities proposed by line agencies leading to lack of policy support for the project. • Lack of clear policy framework and incentives to guide and encourage Project Owners to actively consider CVC in the early project stages, resulting in missed opportunities to incorporate CVC when developing new infrastructure projects. • Lack of political and public support for CVC due to general public perception that commercial interests can lead to conflicts of interest.	• Increase knowledge and understanding of CVC and its potential to help projects get implemented with reduced fiscal commitments or liabilities among planning agencies and finance ministries through knowledge sharing of successful experiences. Governments can engage consultants with relevant experience to assist in sharing and disseminating knowledge and conducting market soundings. • Provide clear policy direction to encourage Project Owners to consider CVC when preparing new projects. This should include a review of the legal and regulatory (discussed in detail later) leeway available for implementing CVC, and developing a roadmap to resolve any such hurdles and overlaps. • Adopt this Guidelines as a policy tool to guide Project Owners to apply CVC**.** For example, planning agencies or approval authorities can consider mandating Project Owners to apply the Guidelines when preparing projects and reporting back to demonstrate that CVC has been fully considered. • Communicate with the public/stakeholders on the role of CVC and how it can be effectively used to balance public and commercial objectives. • Policy agencies could require reporting on potential CVC for any project implemented, including value for money assessment.

Legal Readiness

Typical Challenges	Recommendations
• Lack of or unclear legal mandate of Project Owners to implement CVC leading to the project owner not taking the risks of introducing CVC in the project. E.g. regulations are unclear as to which commercial activities can be undertaken by Project Owners) • Lack of clear legal route to implement CVC. For example, can CVC be implemented through PPP? • Legal issues related to the use of public land for commercial activities. For example, in some cases, land appropriated for public infrastructure cannot be used for commercial purposes. • Legal issues around budgeting and fiscal management which might constrain how revenue from CVC will be managed. For example, in a PPP project, will revenue shared need to flow directly into the general budget or can it be ring-fenced to fund O&M expenses or other projects? • Lack of flexibility in legal framework to implement innovative solutions. For example, is there a flexibility in the legal framework to establish a new entity or design new contractual arrangements.	• Consider CVC opportunities if the Project Owner has a clear legal mandate and contractual authority to implement CVC. • Seek a legal or regulatory review to address the legal issues identified. E.g. seek the legal opinion from a general counsel or the attorney general. The Project Owner may need to assess how complex the review process might be and if benefit will outweigh costs. • Planning agencies can identify legal changes required**,** analyse the cost and benefit of implementing such reforms and assess the political appetite to implement those reforms, if major legal constraints to CVC are found across projects.

Institutional Readiness

Typical Challenges	Recommendations
• Lack of well-defined roles and responsibilities of agencies involved which can lead to inaction. For example, where the Ministry of Transport is responsible for the project but the local government is responsible for some of the CVC activities and the provincial government is responsible for other CVC activities. • Lack of will, time and incentives of Project Owners to carefully assess risks and rewards which can lead to inaction. • Lack of creativity of Project Owner due to a fear of failure or fear of decision-making. • Lack of technical capacity in Project Owners (experience, skills, expertise) to carefully assess risks and rewards of CVC opportunities. For example, how to assess the commercial potential of CVC, how to commercially structure CVC, and how to integrate CVC in project design and services. • Lack of cross-agency coordination as implementing CVC might involve dealing with more than one agency. Potential coordination issues include land acquisition, services provision, asset ownership, benefit sharing, contractual arrangements and etc. (See Box 7) • Lack of private sector appetite to participate in public projects due to bureaucratic processes or complex regulations in general.	• Clarify or define roles and responsibilities of planning agencies and Project Owners in considering CVC. • Provide the right incentives to Project Owners to maximise CVC. • Share international experiences from successful and unsuccessful cases to stimulate creativity. • Increase technical capacity and skills of and provide external technical support to Project Owners to analyse CVC opportunities. • Improve coordination with whole-of-government efforts through different measures such as using institutionalised platforms for coordination (e.g. committees chaired by a high-level authority), providing clear policy direction to the agencies involved and developing a benefit-sharing mechanism to incentivize relevant agencies to jointly develop projects. • Getting private sector's views to assess private sector appetite at early planning stages, address private sector's concerns early in the project structure, and screen out CVC ideas which are not commercially attractive.

Box 6: Unclear mandate can disincentivize Project Owner from considering CVC

While non-fare revenue provides significant contributions to urban transit projects in several countries (e.g., Singapore, Hong Kong), several governments still have a problem letting transport agencies or SOEs get involved in commercial activities due to lack of clarity about whether commercial activities can be considered under the purview of transport agencies.

In another example, there could be a debate about the introduction of a private clinic in a public hospital, whether the public health agency has the legal mandate to provide private medical services.

Box 7: Coordination issue can result in missed opportunity to implement CVC

A local government wishes to develop CVC in its transit project. However, the land around the potential new stations belongs to a national government agency. The local government faces difficulty in trying to acquire the land or the rights to use the land from the national agency. Also, it is not clear if the mandate of the national agency allows the land to be used for commercial purposes. Even if it is allowed, there needs to be a benefit-sharing mechanism with the national agency to incentivize the national agency to allow the local government to use the land for the project.

Footnote 1: For a general discussion of legal, regulatory and institutional framework for infrastructure investment, see Delmon, Jeffrey, Private Investment in Infrastructure: Project finance, PPP projects and PPP programs (2021).

Related Content

- **How innovative revenues for infrastructure can fundamentally reshape infrastructure funding**

Additional Resources

- Climate-Smart PPPs
- Finance Structures for PPP

The Guidelines on Innovative Revenues for Infrastructure (IRI) is intended to be a living document and will be reviewed at regular intervals. They have not been prepared with any specific transaction in mind and are meant to serve only as general guidance. It is therefore critical that the Guidelines be reviewed and adapted for specific transactions.

To find more, visit the Innovative Revenues for Infrastructure section and the Content Outline, or Download the Full Report. For feedback on the content of this section of the website or suggestions for links or materials that could be included, please contact the Public-Private Partnership Resource Center at ppp@worldbank.org.

