

**SIXTH INTERNATIONAL CONFERENCE ON COMPETITION
AND OWNERSHIP
IN LAND PASSENGER TRANSPORT**

Cape Town
19-23 September 1999

Sixth International Conference on Competition and ownership
Cape Town – 19-23 September 1999
Contractualisation - Regulation - Competition
C. Barbieux – Systra

Contractualisation – Competition – Regulation

Three guidelines for improved efficiency in urban public transport

C. Barbieux
Marketing Director – SYSTRA

1. Background

The history of the organisation and management of urban public transport systems follows a trend which could be labelled as a 'global model', even though it does integrate characteristics specific to each of the countries, and, under the current classification, between industrialised countries and developing and emerging countries.

In France especially, during the early years of the 20th century, urban transport networks consisted in tramway type rail systems which were operated as concessions by private operators. The development of automobiles and the extension of towns and cities (development of suburban districts) led to a crisis in heavy urban transport systems. That crisis was not specific to French cities but was felt world-wide. As a result, public authorities (State or local communities) tended virtually everywhere to reappropriate the management of urban public transport networks, which they operated directly, with extensive public financing justified by the public service mission granted to public transport.

Despite these interventions by public authorities, public transport was unable to withstand the increasing popularity of private cars coupled with the consequences of frequently heavy and inefficient public management. In the years between 1985 and 1990, the world-wide trend towards market liberalisation, the privatisation of utilities, in addition to the global economic and financial crisis in developing countries, **led to the redefinition of public transport policies**. This resulted in three major changes in all five continents:

- tendency towards decentralisation, with the handing over of management to local communities wherever it was yet to be implemented in urban transport
- opening up of urban services to the private sector (possibly including the privatisation of public enterprises / state-owned companies) and creation of a competitive environment (**Competition** and **Contractualisation**)
- more sensitive implementation of regulation and deregulation in the transport sector (**Regulation**).

Does the implementation of this model, which is one aspect of the more far reaching economic reorganisation trend, ensure the improved efficiency of public transport systems, without jeopardising their basic economic and social role, and, more essentially, their function in urban structuring and environmental protection?

Such are, succinctly stated, the terms of the current (or rather, recent) debate between the promoters of regulation and a highly active involvement by public authorities (as in the French model) based on the role and position occupied by the State in the redistribution and defence of public service, and those in favour of deregulation and less State intervention to leave a free rein to market forces (Anglo-Saxon model, promoted by the World Bank). The latter model gave rise to the 'small is beautiful' (small operators) and 'competition in and for the market' philosophy.

Based on a number of French examples, as well as on analyses of the situation in towns in developing and emerging countries, this proposal goes halfway: it gives an increasingly large share to the private sector within a contractual framework (regulation), but it also preserves the principle of controlled competition. The resulting situation associates the efficiency of private management and the public control of the utility: public/ private partnership (P.P.P.).

The financing aspect, which involves shared responsibilities between the public and the private sectors, is an expression of that same philosophy.

2. Contractualisation

Utility contractualisation has become a major tendency nowadays. It is implemented on varying bases, all of which express identical preoccupations:

- Comprehensively define the roles of the conceding authority and of the operator respectively: definition of the missions, of financing / price scales, commercial and technical risks, rules for respecting the contract, etc.,
- Seek to make the operator's management efficient via the introduction of incitements (profit-sharing scheme) and a degree of competition,
- Grant the operator a contract period that takes into account its level of investment.

France has created a **model of public service delegation which involves entrusting a private operator with the management of an urban public service**. There are several possible types of delegated management, from a concession, whereby the concessionaire / operator shoulders construction and operation risks, to leasing (investments are the public authority's responsibility), or to a management contract for operation exclusively, with an increasingly marked involvement by the operator depending on the contracts below:

- Management contract (sort of state-owned company)
- Fixed-price contract
- Contract with financial compensation
- Own risk contract: operator shoulders the commercial risks; it defines and collects the fares, to balance out its operation.

Delegated management of urban services has been well tested in France. It is often being quoted as a reference by the World Bank. It differs from privatisation by the fact that investments remain the grantor's property, and revert to it at the term of the contract.

For the last ten years or so, the construction of public transport networks on dedicated sites (of the tramway, metro type) in France and abroad was organised as concessions (BOT). In the French cases of concession, the Community finances part (which can be a substantial one) of the investment costs. The concessionaire enterprise (or grouping) also finances part of the investments (in urban transport, the investment fully supported by the concessionaire is a textbook case). The operator constructs and operates the transport service in exchange for compensation most of which is derived from the fares collected from the passengers. The concessionaire enterprise shoulders the construction risks and a more or less large share of the operating risks. That type of system was implemented in Toulouse, Rouen, Strasbourg, etc.

3. Regulation/ competition

Regulation/ Deregulation

The recent experience of liberalisation / deregulation of public transport services was a tremendous learning experience on the negative consequences of unrestricted market openness without the prior implementation of a new institutional framework and of efficient regulating measures. These negative experiences were made in most of the public transport networks in Africa's large towns, as well as in certain towns in Algeria, in Morocco and in Latin America (for example, Santiago in Chile). In all these cases, there was a proliferation of (second hand) minibuses causing traffic jams, pollution, systematically creaming off the more profitable lines (to the detriment of the less profitable areas). Worse even, these systems had negative consequences on the structuring of space and resulted in a dilution of urban spaces turning the more remote districts into geographic ghettos. Given the forecast urban growth in major towns in Southern countries and increased mobility, it is to be expected that these systems, based on a large number of small operators operating in an environment of deadly competition, will reach their limit and only increase the gap between the public transport offer and the needs.

The main - and virtually universal - lesson to be learnt is that the deregulation of urban public transport markets, which aimed to make the system more efficient (via competition) and to reduce the financial weight for public communities (by resorting to the private sector) only deepened the crisis in the sector, which can only get worse. Why is that?

The urban public sector is in very sharp competition with the automobile. They share the street space and, in the absence of a priority system, it is penalised by competing transport modes. Given its highly capitalistic nature, that sector can only balance its activity by applying price scales which are not compatible with the resources of the less favoured population. Its economic and social role justifies public financing and an organisation which enables it to operate in conditions disconnected from the market; Deregulation condemns middle- and large-sized organised, professional enterprises, capable of operating high capacity installations, rail systems even, whilst complying with social and comfort standards. 'Small is beautiful' is sheer utopianism, which leads to the negative consequences described above.

Now, what type of regulation can be accepted without reverting to 'state' systems lacking flexibility and 'grant greedy'.

- **Regulation is not incompatible with competition.** First and foremost, regulation is relevant to the overall environment of the urban transport sector. It is the regulating authority's responsibility, to deal with traffic police, urban development, local street management and the organisation of urban public transport. In France, this cohesive and regulating function is translated in the implementation of urban travel plans (Plan de Déplacements urbains - PDU), which are mandatory for urban areas with more than 100,000 inhabitants and also contain a definition of organisational principles for transport and urban development in the middle term. The integration of environmental aspects translates in the obligation, for local communities, to promote the least polluting transport modes (walking, cycling, public transport) and to limit automobile traffic in heavily frequented and congested areas. The decentralisation process is under way in most countries and the responsibility for urban transport is devolved to local communities or their groupings defining a territory that is compatible with the setting up of a fully fledged network. In other countries, the State can be listed among the local authorities, but as a rule, the trend is towards granting increasingly wide-ranging responsibilities to the institutional level that is closest to local needs.

The financing of urban transport also falls under the scope of regulation. Indeed, urban transport systems rarely achieve a balance between investments and operation. It thus remains for the public authority (State, local community) to define the overall financing principles for the transport sector. The sources of financing outside of tariffs are highly varied (specific taxes, participation by indirect beneficiaries, guaranteed and government-subsidised financing, etc...). Each country adapts the regulation mode on the basis of its institutional organisation. However, there can be no organisation in the absence of durable financing, which is indispensable to ensure the viability of urban public transport, testifying to the priority granted them.

4. Competition

Last component in an efficient system, **competition**. It has become the standard of excellence. What sort of competition are we talking about?

As mentioned earlier, past experience has proved that wild competition between operators did lead to lower costs, and fares, but had such pernicious consequences that the community ended up shouldering the overall cost. The competition between small operators and large scale organised operators is also distorted and imbalanced, to the detriment of the larger operator who usually does comply to social and safety regulations. The competition between public transport and the automobile is an uneven battle which leads to the breakdown of urban public transport. The competition between private operators and public operator (in the absence of identical conditions of mission and scales) also is hazardous and inevitably leads to a crisis for the public operator. So, which type of competition should we advocate?

Under the French system, which is a major example in Europe, the competition can be organised at the time of granting and / or renewing the contracts, after sending out an invitation to bid. The conditions of competition can vary, depending on the type of contract, from the lowest bidder (lowest subsidy level) to a level of subsidies set for all, the service level and quality, the operator's experience, type of proposed stock, service level, scales, etc...

Since most contracts are signed for a period of five years or more, the contract terms and the specifications on the basis of which the contract with the operator will be formalised, should be as precise as possible. Before the extension of the decentralisation laws, France had drawn up **standard contracts** to which the local communities could refer to identify the list of mandatory clauses to be inserted in the contracts. These standard contracts are no longer valid, but are still used as reference. They provide a framework listing the major clauses: subject of the contract, life, respective responsibilities, scales, risks, renegotiation, conditions of renewal of the contract, ownership of the installations, etc.

The tender procedure is a key opportunity for the operator to become introduced into the market whilst being fully aware of its obligations. Conversely, the contract should enable it to operate in previously defined conditions, which it can accept, amend, or reject. Thus, the contract negotiation is a vital stage which demands that both partners are fully familiar with the market.

As a rule, the construction and operation of heavy public transport systems (of the metro / tramway type) are not compatible with competition with other

operators. In such cases, a structured organisation of the network around the heavy axis, and feeder lines will guarantee the system's overall viability.

Conclusion:

Past experience proves that it is difficult to achieve a balanced urban transport system in satisfactory conditions for the community, operators and users. This fragile balance can be jeopardised over a few years (see the case of state-owned urban transport enterprises in towns in Central and Southern Africa). For the above-mentioned reasons, any change to that situation (introduction of small operators and uncontrolled competition) will lead to a lasting imbalance. The setting up of an efficient and lasting network can only be the result of an overall approach based on the establishment of a regulating authority, financing methods, a structured and planned network, the involvement of all operators, explicit contracts. All this has a cost, but the beneficial consequences in economic and social, environmental terms, as well as in social interactions far exceed these monetary costs.