

9TH CONFERENCE ON COMPETITION AND OWNERSHIP IN LAND TRANSPORT

ENCOURAGING RESULTS OF TENDERING IN DUTCH PUBLIC TRANSPORT

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1. INTRODUCTION

Up until the end of the last century most cities in The Netherlands operated publicly owned city transport systems. Central government was responsible for transport to and from the large cities and the surrounding countryside. Once transport companies or public transport corporations operated a transport system they enjoyed a protected position as a sole licensed transport operator and they were rarely or never replaced.

Over the past few years the responsibility for regional public transport has shifted away from the central government and individual municipal authorities towards the provincial authorities or (in the case of the larger cities) to metropolitan regions. This administrative level also has responsibility over other aspects of mobility and over Town and Country Planning so that the coordination of mobility and T&C or Environmental Planning policy could be better facilitated. We extensively described this shift in the Thredbo paper of 2003.

In 2001 it became possible for the public transport authorities to put out the form and operation of transport services (except national and international railway services) to open tender. With this change the initiative shifted from the transport companies and corporations, who previously used to simply propose a certain level of service to the public transport authorities who in turn would mostly just passively rubber-stamp such annual proposals without further ado. Over the last few years there has been some research done regarding the consequences of this shift. Such studies were carried out in order to enable the national Parliament to take a decision to not just allow transport authorities the possibility of tendering out transport services but to make tendering an obligation under the Dutch Passenger

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Transport Act of 2000. Two years ago we described the purpose and a few of the preliminary results of the aforementioned research. In the meantime the studies have been completed and we are now able to comprehensively present the results and conclusions in this paper.

In chapter 2 we take a brief look at public transport in The Netherlands. In chapter 3 the results of the research are presented with the effects of the tendering. In chapter 4 a few specific topics are covered in greater detail: the location of the tactical planning function, stimuli for operators, related to the duration of concessions and customer involvement. In chapter 5 the most up-to-date state of affairs is covered by the discussion in Parliament regarding whether or not to make it obligatory to put out public transport concessions to open tender. In addition to this, the attention is afforded to the specific situation in the 4 largest Dutch cities that have their own City Transport Corporations. Finally in chapter 6 we take a retrospective look at: the current state of the organisation of public transport in The Netherlands and the instrument of tendering out concessions, as compared to the situation as it was 10 years ago. Have the changes produced the expected results? And, would we researchers still have made the same decisions 10 years ago, if we had known then what we know now?

2. PUBLIC TRANSPORT IN THE NETHERLANDS

2.1 The role of public transport in mobility

The Netherlands is a small country. However there is a population of over 16 million people living in a country of only 41,000 square kilometres. As a result there is daily traffic congestion and traffic jams during peak transport hours, particularly in the larger urban areas. Considering that extending the road network is not often a feasible option, this means that public transport is very important in facilitating access in the large cities.

In addition to this public transport is also used to facilitate participation in the society and access to social provisions for those, that due to physical disability or age for example, are unable to provide for their own mobility needs by bicycle or car.

2.2 Use of public transport

The total use of public transport in The Netherlands in 2003 is summarized in table 1. Passenger transport by train has remained fairly stable over the last few years. However the number of passengers traveling by bus, tram and metro train has dropped recently. This decrease can be mainly noticed outside the large cities, and seems largely due to increased car

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ownership. For travel within and to the large cities use of the bus, tram and urban rapid transit system (metro-trains) has increased over the period concerned.

Table 1. Use of public transport in the Netherlands (2003)

Mode	Trips	Trip kilometres
Train	Approx. 300 million	Approx. 14 billion
Bus, tram and metro	Approx. 900 million	Approx. 6,5 billion

Public transport only has a small position in Dutch mobility. Table 2 shows the modal split share of train and bus, tram and metro:

Table 2. The Mode Shares in % of Total Transport in 2002

mode	mode share (trips)	mode share (trip kilometres)
car	49%	75%
train	2%	9%
bus/tram/metro	3%	4%
walking/cycling	45%	10%
other	1%	2%

2.3 Expenditure, Revenue and Financing of Public Transport

The majority of the rail services in The Netherlands are profitable (excluding the cost of infrastructure). For a few regional rail services this is not the case however. At the present time the central government pays Dutch Railways a subsidy to maintain a few of these services. It is intended that within a few years these will come within the same financial regime and the same management system as buses, trams and metro systems. In the case of a few regional rail services this is already the case. The government also pays to maintain bus, tram and metro transport services: Public Transport Authorities (PTA's) pay the operators for about 62,5% of the operating costs. This is money that the Public Transport Authorities receive from central government. So the actual traveling public contributes about 37,5% of the operating costs. Table 3 shows the amounts of money involved.

Table 3: passenger revenues and state subsidies for public transport (2003)

	Passenger revenues	(State) subsidies	Total cost ¹
National rail services	??	€ 0	???
Regional rail services	??	€ 60 million	???
Bus, tram and metro	€ 650 million	€ 1.090 million	€ 1.740 million

Up until 2004 the Public Transport Authorities received a subsidy from central government that was specifically intended for paying the operators/transport companies for operating

¹ Total of payments by public transport authorities and travellers

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public transport services. Since 2005 this government contribution has formed part of a broader payment, for several mobility objectives. From this amount the regional authorities are able to pay for extensions to the regional road and public transport infrastructure, to instigate measures to improve road safety and to pay for the operation of public transport services. In this regard the regions are free to set their own priorities and to set up their own distribution system for the various different mobility objectives.

3. EFFECTS OF TENDERING ON PUBLIC TRANSPORT

3.1 The introduction of tendering

The Dutch Passenger Transport Act 2000, which came into effect as of 2001, made it possible for PTA's to tender out Public Transport services (bus, tram and metro). This also applies to regional rail services based on the subsequently established legislation on railways. Transport on the mainline rail network is covered by a different set of rules and regulations; the Dutch Railways Passenger Transport Company won the right to operate this transport concession until 2015.

According to the terms of this Act the concessions are tendered out for a maximum period of 6 years. When initiating a tendering procedure the PTA has to draw up a schedule of service requirements. These requirements have to be met by the bidding operators. In order to cushion the possible impact on employment, the law stipulates that an operator that has obtained a new concession has to offer employment to those employees who were directly involved in the provision of transport for the previous operator. The law also stipulates that a PTA must consult each consumer organisation during the tendering procedure.

From 1 January 2006 the law makes tendering a mandatory process, conditional upon a favourable evaluation of the first tender. This matter is currently under discussion in the Dutch Parliament, see chapter 5. Those Public Transport services that are operated by municipal transport companies or corporations are for the time being exempted from this obligation. This concerns about half of the total turnover of public transport.

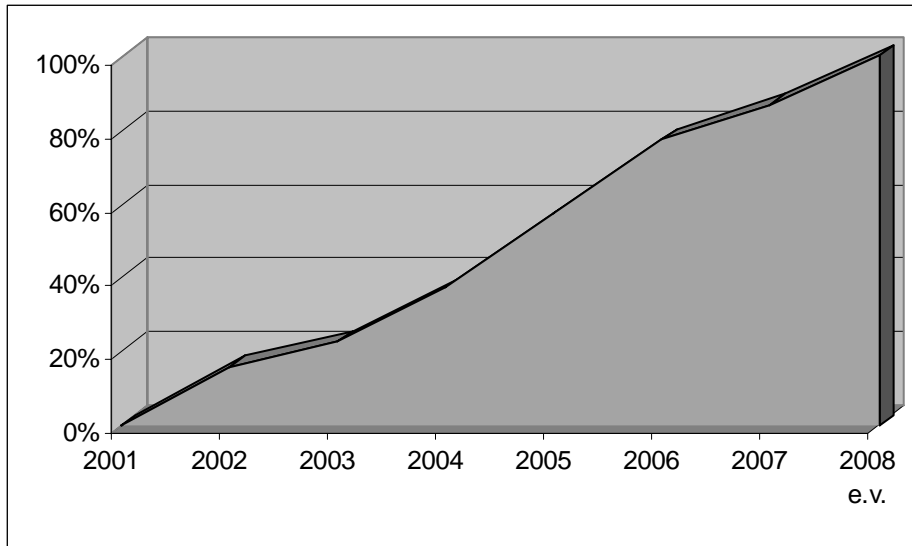
As an intermediate step the relevant legislation defined the aim as being that by the beginning of 2004, 35% of the turnover competed for would already have been put out to tender. This concerns all the public transport services in The Netherlands, with the exception of rail transport and the public transport in those municipalities with their own municipal transport company. It involves about 50% of the total turnover, mentioned in Table 2.

In actual practice the introduction of open tendering has proved somewhat more protracted. The figure of 35% was only achieved in 2005 and even by 2006 not all transport concessions

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will have then been tendered out. Figure 1 below shows how many of the concessions concerned were put out to tender between 2001 and the middle of 2004, and when it was forecast that the remainder would follow suit:

Figure 1: percentage of transport concessions put out to tender, situation /forecast by the middle of 2004(n=75)



Although the introduction of tendering has progressed as a slower pace than expected, most of the 19 *Public Transport Authorities* (PTA's) have nevertheless started implementing a tendering process in the meantime. It was also often deemed preferable to quickly gain experience with this new instrument by trying it out on one (usually small) transport concession before having to have everything tendered out in 2006. Certain reasons why other PTA's did not straight away move to adopt a system of tendering included: the fact that they had built up a lot of trust in the current transport operators, and wanted to first see just how the process worked in practice with other authorities.

The *operator* also had to get used to the changing situation. It was quite common, though not intentionally so, for the operator to regard the PTA's as customers, while this attitude was somewhat less forthcoming regarding the travelling public. This would seem somewhat paradoxical when one of the stated aims of the new legislation was indeed for transport operators to become more customer-minded with respect to the travelling public. We shall return to this point in the sections covering the influence of the traveller and the position of tactical planning.

It also proved possible for transport companies to lose their entitlement to operate a transport concession. Of the 26 concessions that had been tendered out up to and including in 2004, 8 of these had shifted to a new transport operator. The turnover of the largest transport company in the Netherlands, Connexxion, was thereby reduced from 59% to 51% of the competitive market.

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Although Dutch transport companies have started to look outside their own traditional boundaries and have also started to bid for concessions that have been put out to open tender, no new transport operators have as yet come onto the market. An exception to this is the (minimum) concession on the island of Vlieland just off the northern coast of The Netherlands; this concession was won in competitive tendering by a taxi company from the province of Zeeland in the southwest of the country. It appears however that most of the concessions put out for tender are too large (usually having a turnover of more than €5 million) for smaller transport companies to tender for, while at the same time they are possibly a bit too small for foreign transport companies to be bothered about competing for (as the upper limit is currently a turnover of between € 15,= million and € 30,= million). It also appears that the Dutch system of charges and subsidies is somewhat difficult to understand for foreign transport operators, and is therefore regarded as a bit of a risk factor. Foreign companies do however enter the Dutch transport market by taking over Dutch transport companies.

At the moment there are basically four large transport companies that regularly register to compete for transport concessions these are: Connexion, Arriva, BBA (connex) and the Dutch City Transport Company. In addition to the big four there are also about 10 smaller companies that periodically compete for concessions as well as 5 individual urban transport companies. As yet these companies are not however entitled to take part in tendering for concessions as long as their own public transport concession is not put out to open tender. For every concession put out to tender there are on average three transport companies that register to bid for such concessions, in a few cases this might only involve two.

In a number of cases *the travelling public* are confronted with a new transport company due to the change in operator, and in most cases this also involves a change in service schedules. Prior to the Programme of Requirements being established another new factor which Public Transport Authorities are faced with is that of consultation with consumer organisations, where travellers are united in expressing their interests. In addition to this transport operators also take it on themselves to consult travellers (in a variety of ways) or they do so as a result of the conditions for being granted a transport concession. This is covered further in section 4.3.

3.2 The effects of tendering

Improvement in the level of transport facilities

In general the level of the transport facilities provided (in terms of frequency, operating times, routes) has been expanded in those areas where tendering has taken place. This change is often linked to the way in which the PTA has formulated its wishes in the schedule of

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requirements. In the first few tenders The Service Schedule Hours (SSH's) sometimes played a prominent role, regardless of the time at which they were inserted. The company tendering with the greatest number of service schedule hours usually won the concession, even if these hours of services were actually of little benefit to the travelling public. In later requirements the influence of the number of SSH's that were offered by an operator were less of a decisive factor in the comparisons of those transport operators competing by tender, and the point in time at which extra SSH's were deployed became more of a decisive factor. Examples of improvements made in later concessions include:

- the provision of dynamic travel information in buses and/or at bus-stops
- attractive fare rates
- guaranteed seat
- coffee machines at bus-stops on specific routes
- affording greater attention to social safety
- connecting services in cases of delays
- clean air buses

Finally it was notable that in many cases new buses were promised in the tender bids, and really introduced after winning it. As a result, in those areas where tendering for concessions has been introduced, there are often more new buses deployed than in those areas where tendering has not taken place. In addition the programme of requirements often results in such buses having a lower, more comfortable boarding height which are more easily accessible to less able-bodied users; something which recent legislation in The Netherlands has required PTA's to implement with greater vigour than previously.

A slightly improved quality of service

In six transport concessions that were opened to tender, random tests have been carried out to establish whether or not the quality of service has changed following the tendering process. The developments noted appeared to range from neutral to positive.

Static levels of traveller satisfaction

In The Netherlands the opinion of the travelling public has been annually monitored with respect to numerous aspects. The results of such surveys are available for each transport concession. Using these monitoring surveys and other supplementary surveys of the travelling public in 6 of the areas where transport concessions were put out to open tender a study has been made to ascertain just how travellers have reacted to the changes.

The results of these studies vary. Sometimes the opinion expressed by travellers is that the services have improved following tendering and sometimes the opposite opinion is put forward. The differences are not all that great. People tend to give the most positive reactions to the introduction of new equipment. There are no negative points that stand out.

Neutral development of demand

Within the period of the study, i.e. between 2001 and 2003, it appeared that there was a sharp drop in the number of passengers travelling on the entire city and district transport services in The Netherlands. In those areas where transport services had been put out to open tender the situation noted was roughly speaking not much different from that in those areas where no tendering had taken place. Therefore it is not really possible to describe the effects of tendering as either positive or negative as far as the demand for public transport services is concerned and that is in spite of the expansion of level of provision.

The question that remains is just what exactly are the causes of such a lack of growth in passenger numbers. The supply of transport services has grown (so it would be reasonable to expect at least a corresponding increase in usage), and the satisfaction level among travellers has not substantially diminished (which one might expect would negate any possible increase). The most obvious explanation is that the extra supply of services was not realised for or at those moments when there was the greatest demand for such, but such increases were achieved more in those areas or at times when the demand for transport services was limited. This might have been due to the government regarding the provision of (more) public transport services in such areas or at such times referred to as being desirable from the point of view of social considerations.

Of the transport concessions that were tendered out over the last year more is expected as far as a growth in passenger numbers is concerned, partly because of a more shrewd application of Service Schedule Hours and because of better marketing efforts by the operators. Time will tell just what the actual results of this will be. Recent information shows a growth of patronage up to 15 or even 35% in 2 recently tendered concessions (Zutphen-Hengelo-Oldenzaal in the east of the country and Almere).

Improvements in efficiency

For some time now the cost of public transport (to the government) in The Netherlands has shown a slightly downward trend or decrease. This is often linked to the threat of impending tendering. In areas where tendering has taken place however, it appears that the decrease in cost has been more rapid than in areas where no tendering has taken place.

Based on the (limited) information available on such, the researchers estimate that tendering leads to cost reductions of between 10 and 20%. In situations where concessions have been granted in an underhand manner or where negotiations have taken place with the operators regarding the price, the cost price reduction is about 10 percentage points lower. Apart from that they are realised step by step over several years, whereas the lower cost price in the case of tendering is continued fully from the outset of the concessionary period.

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It appears to be the case that improvements in efficiency do not often lead to lower costs for the government. In most cases any profit that is gained from tendering is ploughed back in to more Public Transport.

In The Netherlands no transport concession has been put out for a second tender, so it is not yet possible to say whether an improvement in efficiency will be possible for a second time. Experts do not expect such a second improvement, in fact when forecasting on the basis of examples of such in other countries, it is expected that when tendering out for a second time the PTA's will place more emphasis on improvements in quality and less importance on achieving reductions in cost price.

On average the PTA's spend about one full-time working year on preparing and processing a tender, which is about twice as much as would be the case if the concessions were granted on the nod without any further ado. Apart from that, extra capacity and/or expertise are often engaged by calling in help from a firm of engineering consultants. In total the extra costs are estimated at approximately € 200 000 per tender. The magnitude of the concession appears to exert little influence on this. These extra costs compare very favourably when one considers the lower cost price or the extra transport provisions that can be realised from such.

Causes of the efficiency improvement

Transport operators achieve the realised cost reductions in a number of ways:

- Supply is better attuned to demand: by using smaller buses and/or having a supply of transport ready to deploy on a standby basis or when needed on routes where feasible.
- A more efficient deployment of staff, within the terms of the Collective Labour Agreement for Public Transport, meaning that less staff are needed overall
- Shifting a part of the workload of bus drivers (with a higher wage cost) to taxi drivers (with lower wage costs), particularly during evening or weekend working hours, where under the terms of their Collective Labour Agreement bus drivers are entitled to extra pay.

The trades unions have indicated that they have received reports that the transport companies have been setting finer journey time margins and deploying insufficient trained personnel, which raises issues affecting public safety and service. However the researchers studying the matter have so far been unable to confirm these reports either from a quantitative analysis or from the point of view of degree of customer satisfaction. There have also been no indications recorded that public safety has decreased to any degree.

Consequences for staff

At the request of the Dutch Parliament and following public pressure the Dutch Passenger Transport Act included a stipulation that, upon winning the tender for a new concession, the new operator was obliged to retain all those staff from the previous concession holder that are directly linked to the daily operation of said concession. In addition to the aforementioned

personnel a proportion of the ancillary staff indirectly involved in operating the concession will also be retained in employment by the new holder and this will be determined in proportion to the size of the loss of the concession concerned. In this regard the conditions of the Collective Labour Agreements will remain the same as they were under the previous concession holder. These stipulations are designed to ensure that the tendering out of concessions does not occur to the detriment of those employed in such.

In respect of the staff employed, the evaluation studies concluded that improvements in efficiency would lead to less personnel being needed. With the profit hereby gained more public transport services would be offered to the benefit of the travelling public, so that eventually more staff would in fact be needed. Part of this employment has shifted to the taxi-sector however, which does operate with less favourable working conditions. In total less bus drivers were needed. However there was no question of forced redundancies among bus drivers (or indirect ancillary staff); in situations where less staff were needed this could be compensated for by natural wastage.

The Dutch Passenger Transport Act also required attention to be afforded to the working conditions of the employees involved. Improvement of these was not a direct objective of the 2000 Act; though it was a stated condition that there would be no detriment caused to the position of transport workers. It was observed that due to the tendering process and the related improvements in the corporate processes, under the terms of the existing labour agreements, there was some increase in work pressure experienced (the staff operated more efficiently within the terms of the existing employment agreements, so the workload increased), and more use was made of the collective labour agreement for the taxi sector. New staff entering employment in the transport sector will also operate, much more than was previously the case, under the terms of a taxi sector collective labour agreement. It may be contended that the development of working conditions overall, taking into account both the positive and the negative aspects, can nonetheless be regarded as neither one nor the other but as neutral.

It has been noted less overtime bonuses are now being paid out for working unsociable hours as bus drivers do not need to operate services as much during inconvenient or unsociable time periods. Apart from that attention is demanded for the transfer of staff when a new transport operator takes over control of a concession: as indicated above it has been legally determined that such a transfer will take place; however in practice it seems that staff are often left in limbo wondering about who exactly will actually be retained by the new operator and who will remain with their old employer. Another related point of concern is the details of the number of staff that is involved in operating a transport concession: the “old” operator is obliged to inform the PTA of such details prior to the tendering taking place, in order to inform those registering to tender of just how many employees they will inherit if they win the tender for control of the concession. It seems that there were sometimes gaps left in these details. The government now assumes that the parties involved (PTA, original and new transport operator) will sort out these matters in close consultation with one another. The need for such consultation is recognised by all parties.

4. SPECIAL TOPICS

4.1 Tactical planning

In every concession the tactical planning function (e.g. planning of the routes, frequencies etc.) and the risk to revenues is positioned differently. On the one hand there are PTA's that have precisely determined what the operator should offer; they behave like real principals and ask the operators to do what they (PTA's) ask. On the other hand there are those who attempt to give more latitude to the operator. This latitude can be given to provide the operator with the opportunity to utilize his marketing skills (among other things) to determine the level of demand in a region.

PTA's that have experience with tendering out a transport concession often have a greater grip on the tactical planning function than those PTA's that have not yet put concessions out to tender. There is a school of thought existing among certain PTA's that transport companies are not capable of adequately setting out this planning function due to a tendency to opt for economisation in order to be able to operate at a reduced cost. It has certainly been the case with recent tendering however that it is also sometimes the case that the transport operator was allowed more latitude.

The Dutch 2000 Passenger Transport Act does not literally prescribe terms for the position of the tactical planning function, but it does assume that the transport companies will play a significant role in such. Developments partly point to a different direction, though this movement is as yet not quite clear. The various parties are still searching for their role within the total package. There are also no indications that the results for the travelling public will be better served or worsened in one case than they will be in another case. The government (through the proposals to parliament on the results of tendering) does not see any reason to intervene in this process.

In D.M. van der Velde's paper this material is covered in greater detail

4.2 Stimuli for operators

Once a transport concession for a certain area has been won, the operator will be entitled to take advantage of this concession for a maximum period of six years. If they do not operate services in the way expected of them and the public interest in good public transport is threatened in any way then the 2000 Passenger Transport Act offers the possibility of rescinding the concession, though this is not a very attractive prospect: the PTA would then have to search for another transport operator. In order to avoid this situation the PTA's incorporate stimuli that are designed to engender 'good conduct' from the transport companies. They can be split into four categories:

Monitoring the realisation of concession conditions possibly linked to a system of penalties.

This appears to have worked well in the north of The Netherlands when transport operators were unable to deploy the prescribed capacity as more breakdowns occurred than had been anticipated and due to this less vehicles were able to be deployed. Travellers were forced to stand more often than had been set out in agreements. Despite the initial refusal of the transport operator to do something to remedy this situation, it was solved when it became apparent that a substantial penalty would actually be imposed (something which is not all that common in the Dutch consultative culture).

The inception of a carrot and stick arrangement

This is linked to prior objectives, such as the number of travellers, customer satisfaction and/or indicators concerned with the operation of business. In practice it appeared that the size of the agreed bonus was not always proportionate to the costs which transport operators had to pay in order to realise the related objective, which in turn meant that they would not make as much effort to accomplish this overall. Sometimes transport operators would offer to achieve unattainably high scores for certain objectives (for example the increase in the number of passengers carried), especially if this was a decisive criterion in the tender. In this way tenders were successfully bid for; the downside was therefore tolerated and the growth in traveller numbers was rendered obsolete as a stimulus in such concessions.

A sticking point with this stimulus (as also with the former) is that the score on the established indicators would have to be measured by the PTA, which costs both time and money, or one would have to rely on information from the transport companies, who have a vested interest in the results.

Making the payment for operation of the public transport service dependant upon the revenues gained from passengers.

In spite of the fact that many of the elements of the planning function lie with the PTA, in most cases the revenue risk rests with the transport operator (in 75% of the concessions that are tendered out and 67% of the concessions for which there has been no tendering). It is expected that this too will lead to greater efforts by the transport companies to generate an increase in passenger numbers: the transport operators benefit directly from a growth in revenue and will be more inclined to focus their methods of operation towards achieving this end. However now that a portion of the instruments for achieving such are controlled by the PTA's it is questionable whether this will succeed.

Introduction of an evaluation moment on which continuation of the concession depends

Sometimes concessions are granted for a period of 3 or 4 years, with the right to extend depending on the achievement of certain objectives such as a growth in traveller satisfaction and/or on certain conditions being met, for example with regard to the quality of service. This is tricky, as evaluations have to be carried out quite shortly after the start of a concession period and possibly, as a new tender may have to be then organised. In respect of this the government has now proposed that the maximum concession period be extended from 6 to 8 years in order to afford more latitude to this form of stimulus.

4.3 Customer involvement

The influence of the traveller in the 2000 Passenger Transport Act

Although the effect of open market competition has been introduced to the public transport market, a traveller wishing to make a journey by public transport is still unable to make a choice between several different transport companies. In the system applied, with its' periodic tendering out of concessions, the concession holding transport operator still enjoys a monopoly position for the period of that concession.

Therefore the travelling public requires protection. The main way applied in this event is that of self-regulation by the parties involved within a statutory framework. The 2000 Passenger Transport Act adds to this framework. In this respect three relationships are regarded as vital:

- The relationship between PTA's and travellers:
 - PTA's have to follow a public preparation procedure for setting out the programme of requirements with regard to the concession to be put out to tender. They are obliged to ask advise of consumer groups when granting or changing a concession. This procedure offers interested parties the opportunity to air their views and to make known their ideas.
- The relationship between transport operators and travellers:
 - Transport operators should set up easily accessible and approachable arbitration boards
 - Transport operators are obliged to consult consumer groups on any changes to timetables and service schedules as well as fares and if possible they should (regardless of whether or not they are obliged by the conditions of the concession, imposed by the PTA) also seek such similar advice on other relevant topics

- Transport operators are obliged to take part in a national system of travel information (this includes making a financial contribution as well as supplying all relevant details of timetables and services schedules). In The Netherlands there is a single system covering the entire country, the OV 9292, this is a partnership run by all the transport companies in The Netherlands
- The relationship between governmental authorities and transport operators:
 - The Dutch Passenger Transport Act of 2000 obliges PTA's to incorporate a few topics in the conditions of the concessions that are relevant to travellers, such as attuning service schedules to fit in with other transport companies, fare rates, and the obligation to provide information to the travelling public etc.

Parties are free to further incorporate their own ideas and interpretations within these frameworks in protecting the interests of travellers.

One difference with the past is that with the introduction of the 2000 Passenger Transport Act it is no longer the place of the PTA to decide on a service schedule, but rather it is the transport operator or company that fulfils this task. What is different from the past situation is that this is no longer a decision where interested parties can submit objections or appeal against it.

The courts have now determined that an individual traveller is no longer classed as an interested party in the decisions affecting the granting of a transport concession, this means that appeals or objections by such individuals against the decisions pronounced on concessions are regarded as legally inadmissible.

The influence of passengers in actual practice

In practice it appears that different parties interpret and act on that stated above in different and creative ways.

The interference of travellers (passengers) in the process is mainly expressed through a number of consumer organisations, such as ROVER (the Public Transport passengers' organisation), a few pensioners groups, infirm and disabled organisations, the consumer association and the Dutch Automobile Association. Trade Unions also sometimes take action on behalf of consumer organisations with an interest in Public Transport.

In most regions a ROCOV (Regional Consultation Body for Consumers of Public Transport) has been formed which has grouped together the involvement in the process. These bodies act in inconsistent ways as they have yet to further develop the exact nature of their role. The degree to which they are facilitated by the PTA's also varies.

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A few years ago the OPC was set up as a platform aimed at supporting collective passenger transport and the consumer organisations. This platform came about at the initiative of a few of the consumer groups and their representatives also make up the members of this platform; financial support for this is furnished by central government. The aim of this OPC is to support national, regional and local organisations in the field of collective passenger transport.

In practice the OPC seems mainly to focus its' attention on the ROCOV's (Regional Consultation Body for Consumers of Public Transport). This occurs by providing material support on content, training for ROCOV employees and access/distribution of information via newsletters, a website etc. The position of the OPC is currently being evaluated. Considering the experience with the ROCOV's those involved have indicated that there will also be a continued need for such a coordinated form of support for regional consumer organisations or suchlike groups in the future.

PTA's sometimes involve passengers (organisations) by more than just putting together a programme of requirements. Occasionally they also have some input in the decision on which bid to opt for in a tender process. This can however lead to a certain amount of friction, as the bid favoured by passengers is not always the bid that is eventually selected.

5. THE FUTURE OF TENDERING

5.1 Parliamentary decision on the future of tendering

As provided for in the 2000 Passenger Transport Act, Parliament shall take a decision on whether or not tendering will be made a mandatory obligation. As well as that they will also consider the position of transport operated by municipal transport companies.

In the 2000 Passenger Transport Act a number of evaluation indicators were included which were intended as a guide in the decision making process on whether or not to continue the obligation to tender. On the basis of the evaluation studies, of which the 3 most important results were presented in chapter 3, the Dutch government considers the development regarding these indicators as the following:

1. An increase in the number of passenger miles/kilometres
Score: neutral. In concessions that were tendered out the development of the number of passenger miles/kilometres was negative, this was also the case in areas where no tendering out of concessions had taken place
2. Better service
Score: positive. There are more Schedule Service Hours, new buses and increasingly more travel information in those areas where tendering has taken place

3. Static or lower costs to the government

Score: positive. The fares for Schedule Service Hours are lower; more public transport can be purchased for the same amount of money

4. Guarantees for access and accessibility

Score: positive. Access is improved thanks to the greater attention afforded to the minimum level of service by tendering. The accessibility of Public Transport is improved by the deployment of new buses with a low floor level.

5. Protecting employment in the public transport sector and improving working conditions.

Score: positive and neutral respectively (also see chapter 3)

On the basis of the evaluation results and the developments in the abovementioned indicators, the government has adopted the position that there is no reason to renounce the decreed obligation to tender out bus, tram and metro train services. They have however put forward a few proposals for modifications in order to allow greater latitude for the PTA's and the transport operators, so that the workability of the obligation to tender is improved.

The discussion in Parliament regarding the government's proposals started in June 2005 and it is expected that this will be completed before the summer holiday. The most important parts of this are elucidated in the following sections.

5.2 Government proposals for tendering

Should tendering be mandatory or not

Although most parties are persuaded of the usefulness of tendering, there are repeated proposals for PTA's to be given the freedom to also actually utilize this instrument, or to elect to grant concessions privately.

The government is however sticking to the idea of an obligation in all regional public transport, including the public transport operated by Municipal Transport Companies. According to the government's position, the matter of tendering and the prospect of a mandatory tendering obligation have continually led to effects, which would otherwise never have been realised. Improved efficiency is deemed to be crucial for being able to continue justifying the payment of subsidies to Public Transport. It is feared that parties that are not obliged to tender will once again relapse, and that the positive effects will be lost.

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A later date of commencement of the tendering obligation

When towards the end of 2004 the government formulated the policy proposal with respect to tendering out Public Transport services it was not anticipated that all the disputed concessions would be tendered out by 1-1-2006. In fact before 2005 a large number of tenders were already waiting to be assessed. It was feared that accelerated tendering of the remaining concessions, together with the already impending tender plans would lead to a great effort being made, especially by transport companies. This might lead to the quality of the bids and the degree of competitiveness being threatened. Therefore it was proposed that the obligation to tender be shifted to 2007 (and even later for municipal transport companies), in order that the remaining tenders could be better spread out. In reaction to this the tendering date was also postponed from 2005 to 2006 for a limited number of concessions.

Extending the period of concession in the case of evaluation points

It was previously stated that some PTA's would like to stimulate their transport concession holder into providing a good level of service by incorporating intermittent evaluation points. If the evaluation proves positive, then the concession period can be operated for the entire time period concerned; if it is negative, then it will be terminated prematurely. From the evaluation studies and subsequent discussions with stakeholders it emerged that there was a problem with the maximum operating time of a concession (6 years) is very short for this particular type of construction. An evaluation has to be carried out very soon after commencement of the concession period in order to make a prompt go/no go decision and possibly to instigate a new tendering process.

It is for this reason that the government is now proposing that the maximum concession period be extended from 6 to 8 years. This complies to the proposed European rules

Up to now the 2000 Passenger Transport Act has not included the possibility of exemptions from the mandatory tendering obligation (to be introduced). Situations were brought up from various sides, which made it desirable to allow the possibility of exemption. That is the reason that the government now proposes two possibilities for exemption:

- An exemption for transitional situations, for example because two different concessions that would ideally be tendered out at the same time occur at different times; in such cases a postponement of a maximum of one or two years must be able to be granted;
- An exemption for situations where new innovations are needed (for example an experiment with an new form of infrastructure) which cannot be brought about when a concession is granted for 6 to 8 years; in this case it should be possible to apply an exemption to the obligation to tender for a maximum of one entire concession period.

In all cases the PTA concerned must be able to demonstrate a clear need for the exemption and the Minister of Transport will assess the need in the specific case concerned. In addition to this, under the terms of the proposal the Minister may also set additional conditions with the granting of such an exemption.

5.3 Municipal owned operators

As stated above the municipal owned companies, taking care of about 50% off the turnover in Dutch Public Transport, are currently exempted from mandatory public tendering, but will be obliged to do so in the next future. Originally mandatory tendering for Municipal Transport Companies (MTC's) was intended to take effect as of 2007.

It now appears however that the MTC's are not yet ready for such tendering. Due to the bond they have with the largest municipality in their greater urban area it is almost impossible to imagine a fully open and honest tender if such MTC's are also involved in the bid, especially if that municipality has a say in the granting of the concession.

The government deems it preferable to achieve a situation, including in the greater urban areas, where a more businesslike relationship is brought about between the PTA and the operator, whereby both parties are afforded the necessary latitude to act as they see fit: respectively guaranteeing the public interest of public transport and operating public transport services in the most cost effective manner while transporting as many satisfied customers as possible. On the one hand the government would like to offer the parties sufficient time to do whatever is necessary to open up the urban market. On the other hand the government deems it important to keep the pressure on this process. Postponement should not mean cancellation.

It is regarded as attractive for the current and possibly new parties in that sector of the market that has already been opened up as well as the opening up of the urban market (this concerns the large cities in The Netherlands, with a turnover of € 250 million in the bus and € 550 million in the rail sector). Failure to include these could make it less attractive for foreign companies to enter the Dutch transport market, and thereby render that market less competitive. In contrast by opening up the urban market to open competition, the Municipal Transport Companies will also be allowed to take part in tendering in the rest of the country, which will help to increase the level of competition there as well.

It is for these reasons that the government is sticking to its resolve to introduce mandatory public tendering for the Municipal Transport Companies, however at a later date than was anticipated by the Act: for bus transport this will be from 2009. For tram and metro train transport this will take effect from 2017. In order to stimulate the governmental authorities concerned the necessary measures to be adopted, such as turning the Municipal Transport Companies into independent operators and scaling down the majority interest in these companies, it is possible that exemptions may be applied for municipalities that have sold off more than 50% of their interest in the relevant Municipal Transport Companies before 2007. They do not need to tender out their bus transport concession until 2012.

The reverse will be the case if it appears in 2009 that if in respect of their rail transport the PTA's have not then taken adequate steps towards market conformity and an efficient and

effective tendering out of government means with regard to said rail transport services (also a requirement in relation to Altmark), then it will still be resolved that rail transport has to be put out to open tender by 2012. In respect of this, a benchmark will be developed over the upcoming period. This instrument will be aimed at achieving market conformity and for instance cost efficiency, customer satisfaction, punctuality, accessibility and compare the organisational structures of the Municipal Transport Companies.

6. FITS TENDERING IN PUBLIC TRANSPORT'S FUTURE?

6.1 Have the objectives of tendering been achieved?

When the new 2000 Passenger Transport Act was being prepared about 10 years ago it was assumed by tendering a more customer-orientated public transport would be created, thereby stimulating motorists to leave their cars and shift to using public transport, thereby increasing use of public transport and making it possible to increase profits in the process. In addition it was thought that tendering would lead to a reduction in operating costs, and together with the increased revenues, this would all lead to better cost coverage.

As has already been indicated above, the growth in public transport use has not as yet been realised. The intended greater orientation towards the wishes of passengers aspired to in the 2000 Passenger Transport Act has not really materialized: transport companies were mainly focussed upon the principal PTA's. In those concessions that were tendered out following the evaluation studies it appears that more consideration was indeed afforded to the customer's wishes. Whether this had led to greater usage is as yet unknown, although recent information suggests it does.

Reduction in cost price has indeed been realised, though the intended improvement in the degree of cost coverage has not been achieved however, as the PTA's have mainly opted to plough straight back the profits that were raised by this into more public transport. The total cost of public transport did not decrease as a result of this. Considering that the use of public transport decreased over the study period concerned, and the profits dropped accordingly, the cost coverage in the tendered concessions also decreased just as much as in those concessions where no tendering had taken place.

In between the objectives slightly changed. The focus is no longer on cost coverage, rather on efficiency. And modal shift is no longer an objective at itself; nowadays (contribution to) an appropriate transport system is more achieved.

All in all the original objectives of tendering would not seem to be beyond reach, though they are yet to be realised. A lot has been learned from the first experience, which means that the new tenders will be operated more effectively. They bring the efficiency that is asked for,

which contributes to the appropriateness of the system. The conclusion can be drawn that tendering fits in the new role public transport has in mobility.

6.2 A new role for public transport in regional mobility

The new mobility policy currently being developed in The Netherlands and that is established in the new Mobility Bill recognises regional public transport, for which we have described the experiences with public tendering in this paper, particularly the following two functions:

1. contribution to access of the larger urban areas, especially along those corridors and at those times that access by car become congested;
2. in combination with other forms of collective transport they ensure practicable transport options for those that are unable to provide their own modes of transport.

Regionally the optimum role of public transport must be determined within the context of the entire regional mobility policy, as well as the definition of the specific public transport provisions (and infrastructure) associated with such. A growth in passenger numbers, substitution of car use and an improvement in cost coverage are in this regard no longer national objectives, though they may fit into regional policy. Even though some of those involved are still of the opinion that a mandatory tendering obligation does not come within the gambit of regional responsibility with regard to regional mobility and regional public transport, most stakeholders seem to agree about the fact that the pressure exerted by tendering can contribute to strengthening the overall role of public transport.

6.3 What would the researcher do with tendering?

If we look at things through the eyes of researchers then we can see a market that has been fairly shook up over the last few years. The transport sector has sprung to life and started to see movement.

In the first case this has led to cheaper public transport (for the PTA's at least), which can be translated into more public transport for the same amount of money or the same amount of public transport for less money. However this has not yet led to a growth (for as far as this could be established up to the middle of 2004) in passenger numbers (or a slow down on the decrease) or to savings.

This is mainly due to the fact that the 'profit' of tendering has mainly been utilized to strengthen public transport services at times and in places where there was little demand for such. This choice is an admirable one from the point of view of social motives. However in our view it would be preferable to mainly realise an expansion in the supply of public

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transport services where demand for such might be expected; these are usually in places and at times where public transport services could make a contribution to general access.

Moreover we observe that adjustments to the supply, leaving aside exceptions, mainly occurred at the behest and direction of the governmental authorities that were acting in the role of principal. Due to this situation the entrepreneurship of the transport operator, their professionalism and creativity remain unexploited and unchallenged. Some say that this is the reason that transport operators also don't bother to adjust this, the cost of such would present a disadvantage to the competitiveness and they have nothing more to gain from such. In our opinion the transport operators should be afforded much more latitude to be better able to focus on the passengers' wishes, as intended in the 2000 Passenger Transport Act. This would be best if it also included new methods (that were not difficult to incorporate and establish within the programme of requirements), preferably that also looked further than boundaries of public transport. Integral transport services where public transport is an essential component but where much more than that is offered to the travelling public should be able to fit into the concession. This means that there should be enough latitude allowed so that more than just public transport can be offered in a tendering process, but that it could include for example parking services or perhaps even location development as well. This would mean that the criteria for granting a concession would have to be modified to take account of this. In addition to this new services could also be developed by concession holders during the operation period of a concession, or that in spite of a concession having already being granted, other parties might be allowed to offer innovative mobility services wherein collective transport is also included as a component of such services.

These are all further improvements in the concept of tendering out Public Transport, where we are of the opinion that this could prove to have favourable effects. Costs could be reduced, usage could hopefully be increased and neither travellers nor transport workers would seem to experience any unduly adverse effects in the model applied in The Netherlands. What can also be said is that, in contrast perhaps to some other sectors where market forces have been reluctantly introduced, the principals are able to exert enough influence on the final product, both during the tendering procedure and during the period that a transport concession is subsequently in effect.

This together means that we consider the introduction of tendering as a powerful impulse for regional governments to be able to allow public transport to do what it was designed to do: allowing it to contribute to facilitating access in the larger urban areas and incorporating public transport within a system of adequate provisions for collective passenger transport for those people that are dependent on such a collective mode of transport. So in our opinion, tendering fits perfectly in public transport's future!

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