

COM-3/041

Brussels, 25 April 2001

OPINION

of the

Committee of the Regions

of 4 April 2001

on the

Proposal for a Regulation of the European Parliament and of the Council on action by Member States concerning public service requirements and the award of public service contracts in passenger transport by rail, road and inland waterway

(COM(2000) 7 final - 2000/0212 COD))

The Committee of the Regions

HAVING REGARD TO the Proposal for a Regulation of the European Parliament and of the Council on action by Member States concerning public service requirements and the award of public service contracts in passenger transport by rail, road and inland waterway (COM(2000) 7 final - 2000/0212 COD);

HAVING REGARD TO the decision taken by the Council on 20 October 2000, under Article 71 and the first paragraph of Article 265 of the Treaty establishing the European Community, to consult the Committee of the Regions on the matter;

HAVING REGARD TO the decision of the bureau of the Committee of the Regions of 2 June 1999 to direct Commission 3 (Trans-European Networks, Transport and Information Society) to draw up the relevant opinion;

HAVING REGARD TO the Proposal for a Regulation of the European Parliament and of the Council concerning the granting of aid for the co-ordination of transport by rail, road and inland waterway (presented by the Commission) (COM(2000) 5 final - 2000/0023 COD);

HAVING REGARD TO its opinion on the Communication from the Commission to the Council, the European Parliament, the Committee of the Regions and the Economic and Social Committee "Developing the Citizens' Network: Why good local and regional passenger transport is important,

and how the European Commission is helping to bring it about (COM(1998) 431 final - CdR 436/98 fin)¹;

HAVING REGARD TO the draft opinion (CdR 292/2000 rev. 2) adopted by Commission 3 on 7 February 2000 (rapporteur: **Mr Suykerbuyk**, B/PPE);

adopted the following opinion at its 38th plenary session on 4 and 5 April 2001 (meeting of 4 April).

The Committee of the Regions:

1. notes that the aim of the proposal for a regulation is to modernise Community legislation so as to end up, in a liberalised market, with a procedure for designating operators on the basis of "controlled competition" so that public transport too will join the other areas where the freedom to provide services has already been implemented;
2. takes the view that transport policy has the task of structuring the relevant social and legal framework conditions so that they can meet mobility requirements. In this context steps to secure and further expand the range of available public transport services are particularly important;
3. is pleased with the aim pursued by the proposal and would regard as forward-looking, the establishment of a market, on which a number of service providers - while preserving small business structures - competed with each other to provide a high-quality service at an appropriate price. Such an approach would also provide scope for using public funds more economically. At the same time the Committee takes the view that market economy structures in the transport sector may however entail the risk of outright price competition. This may lead to a decline in quality - to wages - and social-dumping and - in marginal cases - to the emergence of new monopolies. Legislation should therefore be drafted to ensure fair terms of competition, to promote SME-type service provision structures and to preserve qualitative, environmental and social standards;
4. notes that a well-organised public service in the field of passenger transport is an important lever for the policy in this field pursued by regional and local authorities; notes too that public transport is a matter of general interest and that local passenger transport is to be included in the area of public services: the provision of local passenger transport is a task for local self-government and must not be left completely to the free play of market forces;
 1. notes that local public transport service affects the quality of life. Each region must therefore be able to influence this for its own area; notes that the draft regulation correctly covers the entire range of public transport services. This means that rail transport is also included;
 2. notes that in the cities especially, and in all other municipalities, a well developed system of public transport contributes to greater vitality, above all by reducing bottlenecks;
 3. notes that, in rural areas and/or at off-peak times, "para-public" transport modes (collective taxis, on-call buses etc.) can be an excellent means of securing a minimum degree of mobility;

4. notes that public transport makes for better mobility, both at regional and local level, but insists that something really must be done about less-populated regions so that people living in rural areas may enjoy the same mobility as others;
 5. notes that this type of mobility is less polluting for the environment;
2. requests the European Commission to take into appropriate consideration the subsidiarity concept in its proposal for a regulation. The proposal rightly does not set any objectives to be achieved in the field of public service transport, nor does it provide any further detail on the institutional structures to be set up by the Member States. The machinery of public calls for tender is really an appropriate tool enabling competitive advantages to be achieved in terms of costs without jeopardising the general interest. The Committee of the Regions points out that equal opportunity in a market opened up by competition only occurs if the competitive conditions are the same for all market participants. For the competent authorities, an exemption to the tendering obligation must at least be possible in the case of integrated transport services in order not to jeopardise established composite systems. The scope for exemptions under Article 7 (1), (2) and (4) should thus be widened to the extent that the emphasis should be on integration rather than on operators;
 1. wishes that the European Commission take into consideration the various levels of administrative authority within the Member States and that the role of regional and local authorities be noted in the proposal for a regulation, including its title;
 2. draws the attention of the European Commission to the fact that local and regional authorities have major responsibilities in the field of transport in their respective Member States. Among other things, public passenger transport has to fit in with general land-use planning objectives. This applies to routes, both old and new, junctions, stops, platforms, stations, etc. The procedure to be laid down in the regulation must be prepared in such a way as to guarantee consultation of local and regional authorities;
 3. wishes that compensatory payments made by Member States for the allocation of public transport services between the various regions and for investment costs be based on objective and transparent criteria;
 4. calls on the European Commission to extend the duration of public service contracts in order not to discourage operators to invest in safety;
 5. is pleased that the draft regulation explicitly calls for the provision of public transport of a certain quality. One can only be delighted by the attention thus paid to a service of quality. If one chooses the principle of a minimum of mobility for each citizen, quality has to be a central concern. The principle of a minimum of mobility also requires the provision of public transport services with a minimum frequency. However, to make it possible to satisfy local/regional requirements, the criteria for awarding contracts provided for in article 4 should be indicative and not binding, as in the case of the general procurement directives;
 1. notes that the provision of transport is a service which has to take account of three main categories of traveller: those who travel to their work or to return to their home, tourists and the large group of users who are dependent on public transport because of a disability, financial circumstances or their youth or old age;
 2. considers that transport services have to form part of a framework of rights and duties: there is on the one hand the price paid by the traveller, clearly expressed in a fare, and on the other the obligation of the operator, which is to achieve a result;

3. wishes special account to be taken of certain categories of travellers, such as the elderly or the disabled and handicapped;
6. can only be delighted that the regulation takes workers into consideration, since the cancellation of a public service contract may involve a change of operator. One should nevertheless take into account the difference between maintaining existing working conditions and terminating a contract. The regulation must guarantee that the number of employees is maintained and that only working conditions, both the level of quality and social rights, are adapted if necessary. Thus, a legal basis should be established stipulating that criteria relating to labour and social legislation should also be included in invitations to tender;
7. wishes Article 4 of the regulation to be modified by the following proposals:
 - Information concerning timetables, connections, must be clear, free of charge and accessible to all travellers, and operators must improve their services;
 - Travellers must have a safe environment (lighting, assistant staff etc.) not only inside transport services but also outside, i.e. on station platforms, at bus stops etc.;
 - In the event of repeated delays, travellers must be entitled to refunds;
 - The traveller is entitled to reasonable comfort as regards seats, luggage space and - depending on the distance covered - health;
8. Article 2 should be amended so as to make it clear that the proposed regulation applies to all public passenger transport (rail and land transport);
9. wishes Article 3(d) to be reworded as follows:

" 'integrated services' means rail, bus and cable-car services which form part of a compound system that includes a timetable, a tariff and a ticket;"

10. wishes Article 4(1) to be expanded as follows:

" ...by concluding public service contracts in accordance with Chapter III, by laying down minimum criteria for public passenger transport operation in accordance with Chapter IV, by guaranteeing the provision of a high-quality public passenger transport operation.";

11. wishes Article 6(c) to be amended as follows:

" Contracts shall be limited in time and their duration shall be agreed to the average depreciation

period of the vehicles concerned.";

12. proposes adding the following text to Article 10(a) of the draft regulation:

" The minimum criteria must include the possibility of promoting general tickets which encourage the use of public transport within a limited area.";

13. requests the European Commission, contrary to the system indicated in Article 10(b), to prepare another system fixing the amount of compensation so as to avoid private transport becoming impossible;

13. a) requests the European Commission to provide in Article 12 for the possibility of transport services being imposed by the competent authorities, but only in emergency cases when there is no operator and as a temporary measure in order to ensure the continuity of the public service;

13. b) requests the Commission to scale down the transparency rules (Article 7(3) and in particular Article 13) to a level with which the responsible authorities can cope, in line with the related cost: benefit ratio;

14. wishes the transitional measures in Article 17(1) to be extended to eight years;

15. would point, however, to the need to make provision for the requisite measures and conditions to ensure that remote areas too are supplied with adequate transport services (quantity, quality and mode) so as to encourage local inhabitants to stay and to boost local activities;

16. hopes that local and regional authorities will practice a policy that will enable an integrated approach to be adopted in the field of public transport, especially in such areas as prices and timetables; urban areas particularly need an integrated system with a single timetable, a single fare and a single ticket, but it is also necessary to adopt an integrated approach in rural areas;

17. notes that the draft regulation once again contains numerous reporting obligations vis-à-vis the European Commission. These necessitate a great deal of bureaucracy both in national administrations and in the EU administration involved in evaluation. Hence, it would appear sufficient to continue to leave the specific task of market observation largely to national authorities and to cut reporting obligations vis-à-vis the European Commission to a minimum;

18. requests the Commission to replace the calculation method provided for in Appendix 1 of the regulation by one which is easier to understand and apply in practice.

Brussels, 4 April 2001.

The President

The Secretary-General

of the

of the

Committee of the Regions

Committee of the Regions

Jos Chabert

Vincenzo Falcone

¹ OJ C 198 of 14 July 1999, p. 8

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