



The economic regulation of French highways: Just how private did they become?



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ARTICLE INFO

Available online 17 April 2015

Keywords:

French Highways
Optimal toll
Privatization
Economic regulation

ABSTRACT

The French highway system is mainly managed by franchises and financed by tolls. It underwent major changes from 2000 onwards. The most obvious change was the privatization of the companies holding the franchises. Nevertheless, the most important was the transposition of a European directive that led the French government to open the competition for new franchised projects. This resulted in a new form of economic regulation of toll highways involving various economic tools.

Indeed, economic regulation in this case implies the coordinated use by public authorities of five fundamental instruments of infrastructure policy:

- the organization of the market for franchises thus switched from the almost monopolistic management of highways by public regional companies to systematic competition between candidates for the franchises;
- the financing of the extensions of the network previously ensured by these regional companies is now ensured by the private franchise selected with, if necessary, an extension of the term of the franchise and a share financed by subsidy;
- the pricing imposed by the new franchises places greater demands on users, reducing the need for subsidies;
- the evaluation methods that placed a premium on socioeconomic profitability give greater importance to financial profitability; and
- lastly, the choice of investments was no longer that of decreasing socioeconomic internal rate of return but that of value for money, with a progressive decrease of the Net Present Value/subsidy ratio.

This article proposes a presentation of these changes followed by a theoretical analysis of the new mechanisms of economic regulation, involving on the one hand funding and tolls, and on the other the evaluation criteria applied and the choice of investments. Finally, it will highlight that in spite of the growing role of private finance, the new economic regulation of these infrastructures finally remains an affair subject to government decision.

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1. Introduction

French transport infrastructure policy has been a marked over the last fifteen years by the strengthening of market mechanisms and a more prominent role played by private operators. The franchised highway system has not escaped this trend. Fifteen years ago, the franchises for toll highways were principally in the hands of “sociétés d'économie mixte” or SEMs. These firms, which were supposed to mix public and private capital, were, in fact, under direct or indirect government control. However, nowadays,

the principal franchise operators belong to the private sector as a result of various policy initiatives that we will specify in the following section.

In addition to these privatisations, the economic system regulating toll highways has undergone radical changes. Analysing these changes first requires that a definition be given to what we mean by the “economic regulation of infrastructures”. This does not only entail regulation in the strict meaning of the word, but also the joint use of controls over the transport system (government control). In what follows, we consider five main controls:

- the system of regulation itself which, for example, imposes a monopoly or competition, and more generally organises (or

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- imposes) market mechanisms;
- the infrastructure financing and operation formulae which, for example, lay down the rules for the sharing of costs between the public authority and the franchise and, finally, between the user and the taxpayer;
- pricing, in particular for infrastructure use, which weighs sometimes contradictory goals of covering costs, managing demand and redistribution;
- programming, in the sense of deciding to make a given investment and, more generally, in the sense of ranking the implementation of projects; and
- appraisal methods that are intended to inform the above controls, particularly investment decisions.

The economic regulation of infrastructure can be defined as the coordinated use of these five controls. However, even in the absence of good strategic coherence in transport policy, i.e. the deliberate coordination of these five controls, they are clearly highly dependent on each other, as will be seen throughout this paper which deals with the case of French toll highways. We shall show that the recent history of French highway policy can be interpreted as a series of decisions, each of which was triggered by a modification to one of the five controls. These decisions affected the four other controls, too, and therefore the entire policy in place. In this study, we shall only consider franchised, i.e. toll, highways, which account for more than two-thirds of France's highway network.

Our description of the changes this system until the turn of the century will be presented in Section 2. In Section 3 we will propose a theoretical analysis of these changes, for both pricing policy and the evaluation methods. Section 4 presents a brief comparison of the controls imposed by economic regulation before and after the innovations of 2000–2005, which will provide elements of response to the question of just how private did the French highways become beyond the appearances of a simple privatization.

2. Roads have long been under government control

There are more than three centuries that the royal power has implemented a powerful public administration to promote the development of a true national road network in France. Thus, the corps of “ingénieurs des ponts et chaussées” was founded in 1716. It was preceded by an initiative launched by Colbert¹ who, in 1669, created the post of Commissaire des Ponts et Chaussées and, over a 10-year period, increased the budget for transport infrastructure (mainly roads and bridges) by a factor of 30. This striking investment, based on public financing, goes a long way to explaining why, three centuries later, France had an exceptionally dense road network. This density of conventional network required for its building and maintenance a major effort of public finances, inconsistent effort with funding new highways. Thus, in the 1950s, this network included only a few dozen kilometres of highway while there were more than 4000 km in Germany.

This marked failure to keep up with the needs arising from the sudden rise of the motor car gave rise to an exceptionally fierce debate as to whether tolls should be introduced on the highways that had to be built (Abraham, 2011). There were two conflicting points of view: political opposition to the very principle of tolls, and acceptance of the need to finance a policy to make up the backlog.

2.1. The decision to choose toll highways

The French highway network was so far behind that it was the idea of a toll-based system that was victorious. The 1955 act² which introduced this system nevertheless reveals the attitude which reigned during the debates. The first sentence of Article 4, which establishes the possibility of a toll states that “The use of highways is in principal free”. The text goes on to say “However, the government has the right to offer a franchise either for the construction and the operation of a highway, or the operation of a highway or the construction and operation of its ancillaries... The franchise agreement and the terms and conditionsmay authorise the franchisee to collect tolls in order to reimburse advances and expenditure of all types made by national government, local and regional authorities and public bodies ...”.

This established a principle of tolling and a new financing formula whose effects were only to become apparent after the creation of the Vth Republic in 1958. Although the toll highway network was only 50 km long in 1961, half a century later in 2011 this figure had risen to over 9000 km. During the same period, approximately 3000 km of free highways had been built near cities or in deprived regions. In all, the franchised network accounted for three-quarters of new highways thus confirming the efficiency of tolls as a financing method and, by contrast, the difficulty of obtaining public funds in order to extend the toll-free network.

Nevertheless, the respective roles of public and private companies in the franchised network have been very fluctuating until the early 2000s. So, between 1956 and 1963, the government had set up five Sociétés d'Economie Mixte Concessionnaires d'Autoroutes, (SEMCA). Despite their name, these companies were financed entirely by public capital but their lack of dynamism prompted the government, under the impetus of the minister, Albin Chalandon, a free-marketeer, to award franchises to the private sector. Four more companies were thus set up between 1970 and 1973, with banks and civil engineering companies as their shareholders. The success of this first phase of privatisation was jeopardised by the 1973 oil price shock, and only the company called COFIROUTE survived as a private company.³ The system was therefore based on mainly public franchises holding regional monopolies until the early 2000s.

2.2. The coherence of the five controls of economic regulation before 2000

A degree of strategic coherence was thus achieved which was to remain intact until the years 2000. The control of the regulation of the market for franchises resulted from what was described previously. The control of pricing and the financing formula were very transparent.

With regard to pricing, while private companies in the 70s should have been theoretically free to set their own pricing for ten years owing to the “Chalandon law”, the SEMs were still forced to apply approved tolls that were significantly lower than those of the private franchisees. In fact, the freedom as regards pricing that was awarded by contract to the private franchisees was withdrawn very soon: although the terms and conditions for private sector companies included this 10-year period of pricing freedom, a decree of 1975 compelled the companies holding franchises to state the charges they intended to levy one month in advance and allowed the Minister for the Economy and Finance to reject them. This decree came under attack from the private sector companies,

¹ In the history of economic thought, this Prime Minister of Louis XIV is remembered as one of the founding fathers of mercantilism.

² Law no. 55-435 of 18 April 1955 relating to the status of highways.

³ AREA was turned into a SEMCA; APPEL and ACOBA were taken over by two other SEMCAs.

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