



Workshop 4 Report: Governance, ownership and competition in deregulated public transport markets



Didier van de Velde ^{a, b, *}, Katrin Augustin ^c

^a Delft University of Technology, Faculty of Technology, Policy and Management, Section Policy, Organisation, Law and Gaming, The Netherlands

^b inno-V Consultancy, Amsterdam, The Netherlands

^c KCW GmbH, Berlin, Germany

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ABSTRACT

This workshop discussed the functioning of deregulated public transport markets, examining competition options for deregulated markets. The regulatory needs of such market initiative 'deregulated' markets have been considered both from practical and theoretical evidence, covering both local and long-distance markets (bus, coach and rail). Practical evidence has been presented from mature deregulated markets (such as buses in Great Britain outside London) and updates on experiments in countries such as Japan, New Zealand and Sweden. Emerging evidence on the liberalisation and deregulation of long-distance and international markets in Europe and elsewhere was considered, both for coach and rail. The devising of 'rules of the game' formed a centrepiece in the discussions, looking at alternative ways to organise the regulatory guidance of such markets.

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1. Introduction

The main discussion topic within this workshop's theme was: how do deregulated markets work and how to improve their performance? A policy decision in favour of having a regime based upon 'deregulated' market initiative was taken as a starting point for all discussions in the workshop. From there, this workshop discussed ways to optimise the functioning of such markets without questioning that fundamental choice in itself. That means that alternatives to market-initiated regimes – be it a policy decision for public monopolies or for a regime based on comprehensive competitive tendering, by line or network, with or without service re-design freedom for the operator – were not covered by this workshop (see the other workshops of the conference for extensive discussions on the relative merits of negotiated contracts and competitive tendering).

Deregulated scheduled passenger transport regimes constitute one of the main objects of research of the Thredbo conference

series. Following the deregulation of local public transport by bus in Great Britain outside London in 1986, and ever since the first conference in Thredbo in 1989, workshops of this conference series have debated the relative merits of 'deregulated' markets versus 'competitive tendering' (van de Velde & Veeneman, 2010; Walters, 2013). Deregulated markets are defined here as those public transport regulatory regimes based upon the principle of market initiative, i.e., *not* those based upon the principle of authority initiative (see van de Velde, 1999 for a discussion of these concepts). The main characteristics of market initiative regimes are that entrepreneurs in these markets are expected to decide autonomously about entry into the market and service supply in the market. Decisions are made on a commercial basis and are as a matter of principle not subjected to a prior ordering by a transport authority. This does not mean that transport authorities should be absent or have no role to play; quite the opposite. Authorities can have various roles in such markets, such as that of a licensing authority checking technical standards, or that of a regulatory authority guiding or restricting entry, or that of a subsidising authority stimulating and guiding supply, or even that of a social-entrepreneurial authority ordering additional non commercially viable services via competitive tendering.

While the British choice for a regime based upon deregulated markets (outside London) appeared for many years to be an

* Corresponding author. Delft University of Technology, Faculty of Technology, Policy and Management, P.O. Box 5015, 2600 GA Delft, The Netherlands. Tel.: +31 15 278 3440.

E-mail address: d.m.vandavelde@tudelft.nl (D. van de Velde).

exceptional and minority case within the regulation of land passenger transport, the last few conferences identified a policy-led growing relevance of deregulated regimes in particular within the European Union. This was visible not only within transport sectors that are traditionally more likely to be organised according to a 'deregulated' regime such as long-distance coaching, but also in the railway sector and to a growing extent in local passenger transport by bus.

The two conference workshops devoted to deregulated markets prior to this conference discussed this growing relevance while papers presented also showed a tendency to slightly re-regulate more mature deregulated markets (Ashmore & Mellor, 2009; Sergejew, 2007; van de Velde & Wallis, 2013; White, 2010).

The workshop held in 2009 (van de Velde & Beck, 2010) showed that deregulation in various guises was expected to play a growing role in local and regional transport in Europe, despite the growing role of competitive tendering as further stimulated by the European Commission's endeavour to enact a Regulation that put forward competitive tendering of exclusive contracts as the preferred way to organise local public transport markets. This growing relevance of deregulated regimes was by then already visible in long-distance scheduled coach operations and, although in an embryonic stage, in some European railway markets from 2010 onwards, while Sweden was discussing options for deregulating its local bus markets (Westin, 2009). While this tendency towards a further spreading of deregulation was observed, the workshop also discussed the simultaneous developments identified in both Britain (especially with the new legislation enacted in 2008) and New Zealand towards fine-tuning and slightly re-regulating the existing deregulated local bus markets.

This resulted in the workshop tentatively designing three conceptual avenues for regulatory improvements to such 'deregulated' regimes. This effectively resulted in hybrid regimes characterised by different combinations of free market initiative and contract awarding by competitive tendering. Several requirements seemed necessary for these regimes to be effective; the workshop agreed on the need to develop and enforce minimum standards as well as a proper functioning of the different relationships between actors, on equipping competent and powerful authorities with a sufficient 'toolbox' to be used with self-restraint, on the need for a definition of services of general interest and a general guidance on the authority's ambitions via a general public transport plan, on the minimisation of entry barriers, and on accepting integration and cooperation between operators as desirable and crucial in delivering appropriate services to the passengers rather than looking at them as collusive features that ought to be avoided.

The workshop held in the 2011 conference (van de Velde & Preston, 2013) continued this investigation of developing hybrid regimes, based loosely on experience in local bus markets in Great Britain, New Zealand and Sweden – the latter still being at the pre-implementation stage by the time of the workshop. Reviewing these and other international experience, the workshop argued that deregulated public transport markets are a global phenomenon but that regulatory measures need to focus on different items to reflect local requirements. To this effect, a hierarchy of regulatory needs was identified according to which, for example, the development and enforcement of the rule of law should be a primary concern (such as in market initiated urban transport in Sub Saharan Africa, or in the then soon to be deregulated inter urban coach markets such as in Germany) while the issuing of further 'rules of the game' (such as guidance for network integration) and the devising of incentives for welfare maximisation would become an issue when basic regulatory needs have been enforced in more mature public transport markets (such as the local bus market in Great Britain, New Zealand or Sweden).

That workshop suggested priorities to policy-makers and regulators of mature markets, in line with the items identified in the pyramid of regulatory needs. An urgent recommendation was to pay more attention to the designing of smarter (i.e., less dogmatic) 'rules of the game', in particular concerning entry timing, entry selection and exclusivity levels. This touch of clever regulation was seen to be largely underdeveloped but of utmost importance to favour the realisation of network benefits and – through this – address related market failure issues, including those that are caused by all-too-dogmatic implementations of deregulated regimes. A second set of priorities that were formulated related to smarter regulation of market entry, with more attention being paid to licensing requirements (referring to professionalism and safety). A third set related to devising incentivised regulation with respect to fare compensations, passenger incentives and supply incentives, particularly to promote innovation. Finally, the workshop wished to remind policy-makers and regulators that new technologies (including 4G mobile phones and smart cards) would make new approaches easier throughout both the developed and developing world, potentially revolutionising the way we currently look at the need for ticketing integration and fares integration.

2. Evidence presented

The workshop held during this conference continued to examine regulatory options for deregulated markets, covering both local and long-distance markets (bus, coach and rail). The main discussion focus of the workshop subsequently was: "how to make deregulation work?" This discussion was fed by practical evidence from mature deregulated markets (such as buses in Great Britain outside London) and updates on countries such as Sweden, Japan and New Zealand, but also by emerging evidence on the liberalisation and deregulation of long-distance and international markets in Europe and elsewhere, both for coach and rail.

The workshop involved 26 participants with 16 papers presenting evidence from seven countries. The papers in the workshop evaluated the functioning of the current regulatory regimes in the local bus markets of Britain, New Zealand, Sweden, Germany, Japan and Zimbabwe, regulatory reforms in the long-distance coach sector in Germany and the US, and railway reforms towards more open-access in the Czech Republic and Sweden.

2.1. Deregulation in local public transport by bus

The workshop started by discussing the updated evidence presented on the functioning of mature deregulated local public transport markets. A welfare analysis (Preston and Almutairi, 2013b) was presented to update earlier findings on the long-term effects of deregulation on the British passenger transport market by bus outside London. While their earlier paper (Preston and Almutairi, 2013a) indicated that deregulation mainly had positive welfare effects, the updated findings found both positive and negative welfare impacts, all depending upon the assumptions made. A study on customer sovereignty shed additional light on the functioning of the deregulated bus markets, looking in particular at its imperfect functioning (Cowie, 2013). It found that some operators were clearly "bad" company focused profiteers, while only a minority seemed to be "good" consumer led operators. It showed that several strategies to make profit can be taken, and that not all of them need to be against the customer's interest. A paper analysing some of the recommendations of the Competition Commission report and subsequent outcomes, discussed some of the implications of the findings regarding possible 'excessive' profit levels in the industry (White, 2013). It found using case studies that high levels of profit could also be associated with higher customer

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