



Workshop 5 Report: The roles and responsibilities of government and operators



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ABSTRACT

The separation of purchaser and provider requires identification of the respective roles and responsibilities of the two parties. In the spirit of previous Thredbo conferences, we saw it as clear government should be responsible for strategy and operators for operations. That left, as always, the problem of how best to deal with tactical planning as the core issue, and as always there was no simple solution. Government authorities should set the context in the form of contracts, which would inevitably influence the tactical planning process. But it was felt that operators, and particularly smaller locally based operators, would have a better knowledge of the needs of their passengers and of the commercial possibilities of alternative ways of serving them. Thus tactical planning would inevitably involve both government and operator, as well as other stakeholder groups. The workshop also considered issues related to the nature of the government authority that should have responsibility for public transport, the nature of the contract itself and how governments could best create the right environment for contract management, before reaching its conclusions on policy and on research needs.

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1. Introduction

As is invariably the case at Thredbo conferences, the workshop had the benefit of a very wide range of experience. We had 14 papers providing information on experience with both road and rail transport and covering ten countries in Europe, South America and Australasia. The same ten countries were represented by a mix of researchers, policy makers and operators.

The subject of the workshop was the roles and responsibilities of government and operators. In the spirit of previous Thredbo conferences, we saw it as clear that government should be responsible for strategy and operators for operations. That left, as always, the problem of how best to deal with tactical planning as the core issue, and as always there was no simple solution. Government authorities should set the context in the form of contracts, which would inevitably influence the tactical planning process (for instance, governments would want to see at least minimum levels of service to all communities above some minimum size). But it was felt that operators, and particularly smaller locally based operators, would

have a better knowledge of the needs of their passengers and of the commercial possibilities of alternative ways of serving them. Thus tactical planning would inevitably involve both government and operator, as well as other stakeholder groups (e.g. passenger and community associations).

We heard examples from both The Netherlands and Germany of cases where the operator had been left the main responsibility for tactical planning and there had been disappointment in government at the results. In The Netherlands, this disappointment had led to a very interesting experiment of the setting up of joint development teams from the operator and the authority to perform this function. While the reasons and reasonableness of government disappointment are not explored, it seems that both operators and government find there to be merit in a joint approach. The German Verkehrsverbund is another long standing organisational arrangement that brings together government and operators to plan routes, timetables and fares.

In the following section, we will consider the nature of the government authority that should have responsibility for public transport. We then consider in turn the nature of the contract itself and how best can governments create the right environment for contract management, before reaching our conclusions on policy and on research needs.

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2. The nature of the government authority

Having concluded that public authorities have an important role in public transport, not just at the strategic level but also in at least setting the context for tactical planning, the first big question that arose essentially from Scandinavian experience, but is an issue everywhere, was the question of what government bodies should be involved. There was a variety of experience within the workshop, but in general national governments dealt with national rail networks, whilst regional rail and bus services were the responsibility of regions or municipalities. It was thought to be important that public transport planning was adequately coordinated with road and land use planning, education and health services. However, these functions were often carried out at different levels of government. Moreover, rail planning as well as regional buses tended to require a regional outlook, because of the longer distance nature of the services; whereas purely local buses were best planned at a very local level.

Thus it was not possible to come up with a single prescription to suit all circumstances. What did seem clear was that very often a partnership between different levels of government would be needed. This might be a formal partnership in the form of a joint authority or board, or more informal cooperation. The Swiss approach, in which lower tiers of government essentially worked within timetable and tariff plans set out by national government seemed to work well, but was obviously influenced by the geography and political system of the country and might not be a recipe for all.

It was agreed within the workshop that the abilities of the government body dealing with public transport were key factors in achieving a successful outcome. If it is accepted that public transport should be devolved to lower tiers of government, then an issue arises of how to ensure adequate knowledge and experience, particularly in dealing with rail contracts, where each authority might only hold one or two contracts which only came up for renewal every few years. Moreover, it was noted that in small authorities, staff turnover could be a great problem in sustaining these skills. It seemed essential for the bodies involved to have a means of sharing data and experience as well as having a greater sense of obligation to have a sound understanding and oversight of the contracts that they manage (participants were surprised to hear that this did not seem to be happening in Sweden, one of the countries with most experience of devolved public transport planning and contracting). There might be advantages in a skilled, centralized body undertaking procurement of public transport, although there were doubts about the wisdom of separating procurement from contract management. Using such a body to gather experience, benchmark performance and prepare contract templates, which embodied best practice but could be adapted to individual circumstances, seemed a more promising approach.

A further important issue is the ability to work closely with operators, whilst not being 'captured'. Given the emphasis on cooperation with both public and private sector bodies, the workshop felt that the successful local government public transport officer needed a lot more than purely technical skills. We felt we knew too little about the background and training of such people and how to foster such skills for the future.

3. The nature of the contracts

A number of key issues arose regarding the contracts themselves.

Firstly, if the benefit of the input of a local operator strongly embedded in the community were to be obtained, there would be advantages in a negotiated contract rather than opening the market

to a possible entrant without that local knowledge. The workshop was not against such contracts where there was clear evidence that the operator was performing well (again benchmarking was crucial) but was nervous of the possibility of regulatory capture, and felt that the market should be tested by competitive tendering periodically. However, the rail market in Switzerland seemed to be a case where a public transport system largely in public hands (although split between federal government and cantons) had greatly improved its performance, carrying many more passengers with reduced subsidy, as a result of negotiated contracts based on ambitious targets with severe financial constraints, i.e., without the introduction of either competitive tendering or private ownership. In another case, experience in Poland indicated active management by the authority was important to securing quality services irrespective of whether the contractor was a public or private business.

Where competitive tendering was undertaken, there were various things the authority could do to promote competition. Firstly, the size of the lots was important. Very large lots tend to preclude many, sometimes substantial, operators, unless they work in consortia, and the degree to which that was permitted would be determined by competition law (we had an example from Brazil where formation of consortia had helped to ensure that incumbents retained their existing services). On the other hand, having many small operators in an area, especially if they have route-type contracts, makes involvement of operators in tactical planning more difficult, and requires a greater input from the public authority in terms of integration. As always, a balance has to be struck.

Secondly, bidders must receive adequate data, certainly on patronage and arguably also on costs. This is not usually a big issue when the incumbent is publicly owned as the authority should have access to the data and the right to share it with bidders (although when a publicly owned company has the structure of a private company, such as Deutsche Bahn, this can still be an issue). We had one example where bidders for rail contracts in a German city had to conduct their own patronage counts for the existing system to obtain data needed to prepare tenders. Obviously the incumbent will be reluctant to share data, and there may be difficult legal issues if the incumbent is a privately owned operator previously running services on a commercial basis or on a contract which did not adequately provide for the public authority to obtain and share data.

Thirdly, the public authority should take on risks that are outside the operators' control. This could extend to overall revenue risk in the case of gross cost contracts for parts of a strongly planned and integrated regional network, although other quality-related incentives will then have to be included in the contract. Alternatively, it could include that part of revenue risk outside the operator's control. For instance, rail franchises in Britain now include an adjustment for the estimated effects on revenue of different rates of GDP growth than that anticipated at the time of the tender. The same approach could be taken to, for instance, petrol prices or traffic speeds.

On the cost side, general changes in costs such as fuel prices and labour costs might be borne by the government (but not of course the actual changes experienced by the firm, so that they still have an incentive to minimise the impact on their business of the national trends).

It may be objected that such measures are relieving the private sector of risks that in most spheres of business they would have to take on themselves. But in most spheres of business their ability to manage the risks would not be constrained by a contract limiting their freedom of action. Moreover, if the result is to attract more competition, reduce the introduction of risk premiums and reduce the risk of contract failure with its resulting costs, the action would seem justified by giving better value for money from the contract.

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