

# Mobility: the Autorité publishes its opinion on the competitive functioning of the land passenger transport sector

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## Background

The diversity, efficiency and cost of land passenger transport are essential for the proper functioning of the French production system and employment market, for French citizens to access education, training and health, and for social and regional cohesion. In addition, French work to reduce greenhouse gas emissions relies critically on the transport sector, the main emitter of greenhouse gases.

Noting that the sector had evolved significantly in recent years, particularly under the impulse of new European legislation, and with contracted rail transport preparing to open up to competition, the *Autorité de la concurrence* announced on 19 December 2022 that it had launched an opinion at its own initiative, in order to carry out an unprecedented stocktaking exercise.

The *Autorité*'s review was informed by the results of a public consultation from 3 to 31 March 2023 (36 contributions), as well as by its discussions with all the players in the sector: the French Transport Regulatory Authority (*Autorité de régulation des transports*, ART), the ministries concerned, several regions and cities, SNCF Réseau, SNCF Gares & Connexions, the French Rail Association (*Association française du rail*, AFRA) and the French National Federation of Transport Users' Associations (*Fédération nationale des associations d'usagers des transports*, FNAUT). Its analysis was also based on a number of public reports and documents, including those of the ART, the French Court of Auditors (*Cour des comptes*), the French Centre for Studies and Expertise on Risk, Mobility and Development (*Centre d'études et d'expertise sur les risques, l'environnement, la mobilité et l'aménagement*, CEREMA), the French Ecological Transition Agency (*Agence de la transition écologique*, ADEME) and the relevant ministries.

The *Autorité* is today publishing its final opinion.

## **A review of past recommendations and an overall assessment**

For the first time, the *Autorité* is taking a systematic look at the implementation and effects of its past recommendations in a given sector. It is also updating its analysis of the competitive landscape in the sectors concerned to include two additional dimensions – intermodality and sustainable development – and take account of legislative and regulatory developments.

The 250-page document provides an overall assessment, broken down as follows:

- markets where there is permanent competition: freely organised intercity road transport ("Macron coaches"), freely organised rail transport and private public passenger transport (taxis and private-hire vehicles [PHVs]);
- markets where competition takes place during tender processes: contracted urban transport, intercity road transport and rail transport;
- railway, bus and multimodal stations;
- the question of intermodality.

## **The new recommendations**

While the *Autorité* is issuing specific recommendations for each market, it finds, across the board, that competition is not only a factor in lowering the cost and improving the quality and diversity of the offer, but also plays a key role in the sector's ecological transition. Competition offers new levers for a sustainable transport policy, whether in the freely organised transport market or the contracted transport market.

- For markets where there is free competition between several operators, the *Autorité*'s recommendations target a number of barriers to entry that need to be lifted, as well as factors likely to favour the historic rail monopoly-holder over its competitors.
- With regard to contracted transport, the *Autorité* notes that public procurement plays a central role in the competitive process, since the mobility organising authorities choose the contract holders following public calls for tender. Concerning urban transport, the *Autorité* notes that the sector is characterised by low competitive intensity. In terms of rail transport, it notes that from 25 December, any new contract for the operation of a contracted regional rail transport service (currently operated under the regional TER brand by SNCF Voyageurs) must be subject to competitive bidding. In view of the competitive challenges involved in competitive bidding processes, the *Autorité* is making recommendations, in the form of best practices to be implemented, for local and regional public authorities, to encourage competition between operators in the calls for tenders they organise.
- With regard to stations, the *Autorité* recalls their multimodal nature and considers that opening up the sector to competition requires a rethinking of the station model. The *Autorité* therefore calls on all stakeholders, and local and regional public authorities in particular, to take up this issue.
- Lastly, to support the transformation of the land passenger transport sector as part of the ecological transition, the *Autorité* recommends that the legislator amend the French Transport Code (*Code des transports*), so that the ART can have a legal basis that more clearly enshrines environmental protection and regional development in its missions.
- In general, the *Autorité* reaffirms its support for the sector-specific regulator, whose role is crucial to the success of opening up to competition, and whose resources and prerogatives could usefully be strengthened.

## **Sustainable development is one of the objectives of the policy to open up land passenger transport to competition**

While the European Green Deal presented in December 2019 calls for greenhouse gas emissions to be reduced by 55% by 2030 compared with 1990 levels, and for climate neutrality to be achieved by 2050, the transport sector needs to evolve to reduce its negative impact on the environment. At the national level, it is the largest contributing sector to greenhouse gas emissions (31% of greenhouse gas emissions in France in 2019). With the Green Deal mentioning an objective of a 90% reduction in greenhouse gas emissions from transport, transport policy must necessarily be seen through the prism of sustainable development.

Policies aimed at opening up public transport to competition were quick to incorporate the issues of sustainable development and the fight against climate change. As early as its 1996 White Paper on rail transport, the Commission established a clear link between sustainable mobility and the expected benefits of opening up to competition. Observing that “[t]he *railways could do much to sustain mobility in the next century*”, but that their market share was continuing to decline, the Commission recommended opening them up to competition in order to “*revitalise*” them.

All the Commission's successive White Papers have included the issue of sustainable development in their definition of a transport policy open to competition, particularly in land passenger transport. Achieving the objectives of competition policy contributes to sustainable development when competition improves the transport offer for passengers and makes mobility, in its less polluting forms, more attractive for consumers, which is likely to encourage a modal shift.

As part of this opinion, the investigation carried out by the *Autorité*'s departments has shown that opening up to competition can accelerate the ecological transition of transport.

In the contracted urban transport markets, both the European Court of Justice and the European Commission recognise the contracting authority's right to choose between the lowest and the most economically advantageous bid, and consider that environmental factors can be used to determine the latter. The introduction of environmental criteria in calls for tender issued by mobility authorities can encourage players to intensify their innovation. For example, in a call for tender, the Hauts-de-France region selected a carrier that proposed an ambitious ecological offer (80% of the fleet greened). From 23 August 2026, it will be mandatory to include at least one environmental criterion in the award criteria for public procurement contracts.

Given their importance, sustainable development objectives and the intermodality that contributes to them could be more clearly integrated into the mission of the sector-specific regulator, the ART, by introducing a more explicit legal basis. With this in mind, the *Autorité* recommends that the legislator amend the French Transport Code (*Code des transports*) to ensure that the ART's missions are consistent with the overall objectives of France's transport policy, which include environmental protection and regional development.

## **The competitive situation in the markets for freely organised services**

### **The intercity coach market: the success of “Macron” coaches**

In 2013, anticipating the development of the market, the *Autorité* launched inquiries at its own initiative to issue an opinion on the operation of the French regular interregional coach transport market. The *Autorité* proposed a series of measures to open up market access to competition. These proposals were taken up by the legislator and the government in the 2015 “Macron Law”.

Since then, companies have been free to provide regular intercity coach services. These services are freely marketed when all the stops served are more than 100 kilometres apart. Routes that are less than 100 kilometres may be prohibited by the organising authorities of rail transport services if they are deemed to pose a threat to the authorities' economic equilibrium, under the supervision of the ART.

The *Autorité* now finds that, although dominated by a duopoly (FlixBus and Blablacar represented 66% and 33% of coach traffic per km in 2021, respectively), this sector is showing definite dynamism. Even if ridership remains geographically polarised (45% of passengers travelled from or to Paris), the opening of freely organised lines has helped develop transport in poorly served areas.

The *Autorité's* investigation has also found that these coach services complement the transport offer and are more of an alternative to freely organised rail services than to the contracted rail transport organised by the regions.

The *Autorité* has made a series of new recommendations to improve the organisation of the sector and measure the competitive and environmental impact of the "Macron" coaches.

- To further stimulate competition in the sector, the *Autorité* recommends that the legislator redefine the notion of intercity service in light of the new regional boundaries, insofar as the notion of long distance is no longer necessarily synonymous with interregional.

- The *Autorité* also recommends that the legislator add to the French Transport Code (*Code des transports*) to enable the ART to collect from the regions the data they hold in their capacity as organising authorities for contracted services, so the sector-specific regulator can effectively assess the overall provision of existing intercity transport services, as entrusted to it by the legislator.
- To measure the environmental impact of “Macron” coaches, the *Autorité* recommends that ADEME update its study published in December 2016.

## **The freely organised rail transport market: new entrants face persistent barriers to entry**

Since 2008, the *Autorité* has issued a number of decisions and opinions with recommendations to promote competition in this sector, which is gradually being opened up to competition. Since 12 December 2020, railway companies have had free access to the French rail network to develop passenger transport services (open-access market for freely organised services).

Since 18 December 2021, SNCF Voyageurs has been competing with Trenitalia on the Paris-Lyon route. Last July, Spanish operator Renfe entered the market, notably on the Lyon-Barcelona route. The *Autorité* also notes that several other players are planning to enter the French market: Midnight Trains, Le Train, Railcoop and Kevin Speed, among others.

The rail passenger transport market has therefore entered a new phase in its development. The arrival of competitors to SNCF Voyageurs reveals the practical conditions of competition. It demonstrates the many obstacles likely to hinder the development of free competition. The *Autorité*'s opinion therefore sets out, on the one hand, to take stock of its previous recommendations, and, on the other, to describe these new difficulties and put forward a range of suggestions for resolving them.

- ***SNCF Réseau's organisation within the SNCF group***

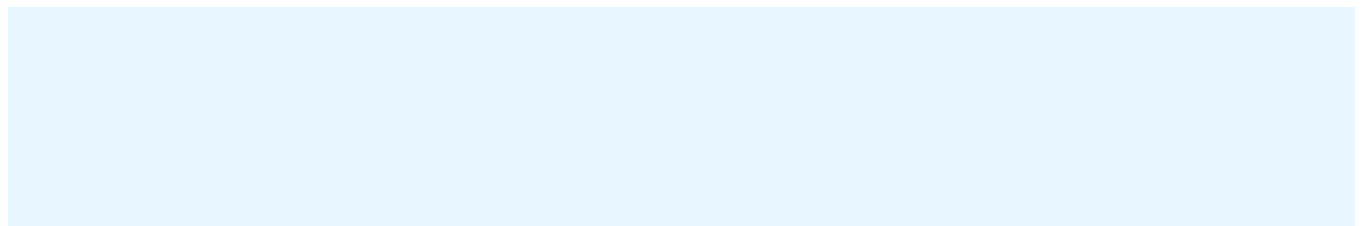
As infrastructure manager, SNCF Réseau is responsible for regulating and stimulating competition in rail transport markets. In addition to maintaining, regenerating and modernising the infrastructure, it has the crucial role of ensuring equal access to the network for all railway companies.

The *Autorité* had recommended the creation of an infrastructure manager independent of the SNCF group, but took note of the different choice made by the legislator. However, it is keen to point out the competitive limitations of the chosen solution and notes the persistent concern that this organisation is causing among new entrants.

In this respect, the *Autorité*'s investigation identified a number of competitive risks inherent in this integrated organisation. This situation is fraught with numerous risks in terms of conflicts of interest, impartiality, equal access to the network, cross-subsidies and fair competition conditions between railway companies. The proximity of the group's various activities, the similarity of the visual identities and the single SNCF group brand create confusion between the activities of the infrastructure manager, which is deemed independent, and those of the railway company.

In addition, the *Autorité* notes that SNCF Réseau seems to be adapting slowly to the opening up to competition, and is struggling to make room for the diversity of new entrants' business models.

The *Autorité* therefore reaffirms the need for vigilance regarding the practical consequences of SNCF Réseau's vertical integration with the SNCF group's railway and non-railway companies. It is making a series of recommendations to neutralise the competitive risks inherent in this organisation.





The *Autorité* proposes a series of recommendations to make SNCF Réseau a genuine infrastructure manager, independent of the SNCF group's other activities.

For example, the *Autorité* recommends:

- extending to all SNCF Réseau's missions the safeguards provided by law for the exercise of essential functions;
- amending the French Transport Code (*Code des transports*) to give the ART power of assent to SNCF Réseau's code of conduct, and the power to issue injunctions and sanctions if SNCF Réseau breaches the code.

The *Autorité* is also focusing on increasing the independence of SNCF Réseau's Board of Directors, and on the subject of careers and staff movements within the group.

- ***Persistent barriers to entry***

The *Autorité* highlights the persistent barriers to entry that hinder the development of competition: difficulties in accessing rolling stock and on-board signalling equipment, rolling stock qualification and compliance services and service facilities, as well as unsatisfactory quality of infrastructure and services provided by the infrastructure manager.

The poor quality of the infrastructure is criticised by all market players: the lack of visibility on the scheduling of works, the absence of exhaustive mapping of facilities and the heterogeneity of signalling systems generate risks and costs for the railway companies present on the network or wanting to use it. This poor performance, and the lack of investment by the French State, are set against the high level of tolls charged to railway companies.

Faced with strong demand for rail transport, which is being encouraged by the government as part of the climate transition, competition can promote the development of the offer and thus help finance the investment needed to restore the quality of rail infrastructure. The effect on the offer is confirmed by the example of Austria and Italy, which opened up their rail markets earlier than France. In Austria, for example, in the freely organised railway markets, the arrival of a new entrant on the Vienna-Salzburg route to compete with the incumbent operator ÖBB led to a 25% reduction in prices on this route and a 25% increase in passenger numbers. In Italy, the arrival of new entrant NTV in 2012 prompted incumbent operator Trenitalia to increase frequencies and improve the quality of service. In France, the ART has noted a 10% drop in ticket prices on the Paris-Lyon route since Trenitalia's arrival.

Rail tolls, which are particularly high in France, could act as a deterrent to new entrants. An assessment of the impact that lower tolls would have on rail offers and, thereby, on infrastructure financing seems necessary.

The *Autorité* recommends a series of measures to lower these barriers to entry into the French market. For example:

- it calls on SNCF Réseau to provide more precise information on the scheduling of works, and also on SNCF Voyageurs to ensure transparent, fair and non-discriminatory access to its expertise in on-board safety systems;
- it also recommends that SNCF Voyageurs issue general calls for expressions of interest when it withdraws its rolling stock from service;
- it recommends that the French State and the other organising authorities consider setting up a ROSCO, which could lease rolling stock to railway companies;
- it supports the ART's efforts to implement incentive-based regulation of access to rail infrastructure as part of its regulatory missions;

- it recalls that the ART, as the sector-specific regulator, is the key contact for new entrants, and the main driver of competition in the rail sector. It therefore calls on the government to ensure that the ART's human and financial resources are commensurate with its missions and its role in opening up to competition.

## **The private public passenger transport market: taxis and PHVs**

The *Autorité* is issuing an opinion on this sector for the eighth time since 2013. In line with its decision-making practice, the *Autorité* makes a distinction between two markets: the hail and rank market, i.e. transport without booking, in which taxis have a legal monopoly, and the pre-book market, in which taxis compete with PHVs.

The development of intermediation platforms and geolocation tools means there is little separation between these two markets in practice, but the maintenance of a legal monopoly on the hail and rank market remains an essential feature of the sector.

In its previous opinions, the *Autorité* made recommendations on the regulation of taxi fares, the specific obligations imposed on PHVs, the need to create a statistical tool and a market observatory, and the conditions for accessing the professions of taxi driver and PHV driver, in particular the organisation of examinations to obtain professional licences. It finds that the government has taken insufficient account of its recommendations.

In addition, the *Autorité* notes that the government's knowledge of the market remains incomplete. The French Observatory of Private Public Passenger Transport (*Observatoire national des transports publics particuliers de personnes*) created by the 2016 "Grandguillaume Law" should help to change the situation, since the data collection system is now effective. The *Autorité* welcomes the creation of this observatory, but notes that the data published is still insufficient to assess the reality of competitive conditions.

Lastly, in line with the recommendation made in Opinion 14-A-17, the *Autorité* finds that the creation and procedures for the professional examination for PHV drivers have helped remove a barrier to entry and bring the conditions of access to the two professions closer together.

- The *Autorité* welcomes the creation of the French Observatory of Private Public Passenger Transport (*Observatoire national des transports publics particuliers de personnes*) and hopes that ongoing discussions between the French State and stakeholders on the technical details of data collection will lead to the periodic publication of complete and accurate data to improve knowledge of this sector.
- The *Autorité* reiterates its recommendations to relax taxi fare regulations in the pre-book market and abolish the requirement for a financial guarantee applicable only to PHV operators.
- With regard to the organisation of examinations to obtain professional licences, the *Autorité* calls on the government to rapidly publish the implementing decree on the composition and operation of examination boards. It also calls on the government to adapt the frequency of examination sessions to the specific circumstances of overseas territories.
- To enable the sector to meet demand, the *Autorité* recommends that, as far as possible, the deadlines for obtaining taxi and PHV professional licences should be brought into line with those laid down in the French Transport Code (*Code des transports*).

## **The competitive situation in contracted markets**

European Union law allows the government to choose to subsidise the transport services it organises, by way of derogation from State aid rules, if they are services of general economic interest, subject to public service obligations (PSOs).

In France, the organisation of public transport is a shared responsibility between the French State, the regions and the inter-municipalities. These mobility organising authorities (*autorités organisatrices de mobilité*, AOMs) have a crucial role to play since, in the contracted transport sector, competition takes place through the calls for tender they issue.

### **Urban transport: in the face of low competitive intensity, AOMs must play their full role in stimulating competition**

In cities, most public transport journeys are made within dense, often multimodal, transport networks organised at the conurbation level. In principle, the AOMs entrusted by the legislator with the organisation of urban transport services are the inter-municipalities.

In 2009, the *Autorité* called on local and regional public authorities to be vigilant in the face of the potential risk posed to urban transport markets by the combination of a high degree of operator concentration and the presence of the incumbent rail transport operator, via its subsidiary Keolis. Back in 2005, the French Court of Auditors (*Cour des comptes*) noted that in this sector, which is concentrated around a very small number of operators, effective competitive bidding for operating contracts was "*problematic*", with opening up to other operators "*virtually non-existent*" in practice, and tenders usually covering the entire urban network concerned.

The situation has not changed significantly since then. The *Autorité* finds that recent calls for tender in several cities have seen only one candidate submit a bid. Furthermore, between 2005 and 2021, in 74% of the cases studied, the incumbent operator was renewed following a competitive bidding process. Given this situation, AOMs and the *Autorité* must remain vigilant.

In 2020, the *Autorité* called on every company with a legal monopoly "*not to give an undue advantage to its subsidiary by leveraging assets or information in an exclusive situation made available to the bidding company under privileged conditions*".

In this opinion, the *Autorité* reiterates its call for vigilance to organising authorities, which are responsible for driving competition in urban transport markets, regarding the competitive risks that can arise when a bidder is backed by an incumbent operator that combines infrastructure management and service operation within a single group.

It recommends, where appropriate, that the operators concerned reinforce the separation measures between subsidiaries, and recommends that the State shareholder ensure separation between the subsidiaries of the companies it owns, in order to guarantee compliance with competition law.

In addition, in 2009, the *Autorité* invited organising authorities to consider allocating their calls for tender, while taking into account the interests of users, insofar as allocation is likely to increase competition and limit the dependence of AOMs on the few very large operators present in the market.

Finding that this recommendation has not been closely followed, the *Autorité* reiterates it and invites AOMs:

- not to rule out allocation as a matter of principle, and to systematically study its impact before taking decisions on the next expiry dates of their contracts with operators;
- to include a robust set of service quality and performance incentives and penalties in the contractual framework, in the interests of users, particularly when they decide to contract with a single operator.

Lastly, the *Autorité* invites AOMs to intensify their exchanges and feedback on the competitive organisation of urban transport, particularly within the associations of which they are members. This work could lead to the drafting of a best practice guide. The *Autorité* is prepared to contribute to this within the limits of its powers, and invites the ministries concerned and the ART to respond, where appropriate, to requests from AOMs on this subject, in accordance with the principle of the self-government of local and regional public authorities.

## Recommendations

The *Autorité* reiterates its 2020 call for vigilance to organising authorities, which are responsible for driving competition in urban transport markets, regarding the competitive risks that can arise when a bidder is backed by an incumbent operator that combines infrastructure management and service operation within a single group.

The *Autorité* recommends, where appropriate, that the operators concerned reinforce the separation measures between subsidiaries, and recommends that the State shareholder ensure separation between the subsidiaries of the companies it owns, in order to guarantee compliance with competition law.

The *Autorité* invites the organising authorities to intensify their exchanges and feedback on the competitive organisation of urban transport, particularly within the associations of which they are members. This work could usefully lead to the drafting of a best practice guide. The *Autorité* is prepared to contribute to this within the limits of its powers, and invites the ministries concerned and the ART to respond, where appropriate, to requests from AOMs on this subject, in accordance with the principle of the self-government of local and regional public authorities.

- The role of sustainable development in public transport procurement, particularly in terms of the inclusion of environmental criteria, could be discussed as part of this work.

## Best practice

The freedom given to AOMs to organise and implement their mobility policy is a key feature of the urban transport sector. However, when these companies have recourse to competition, certain best practices can give them new levers. This is because:

- they incorporate the general recommendations made by the *Autorité* in its different opinions into their deliberations and preparatory work for the launch of competitive bidding processes;
- in particular, they do not rule out allocation as a matter of principle, and systematically study its impact before taking decisions on the next expiry dates of their contracts with operators;
- they include a robust set of service quality and performance incentives and penalties in the contractual framework, in the interests of users, particularly when an AOM decides to contract with a single operator;
- they canvass the different operators in advance of calls for tender, and make the provisional timetable for future calls for tender more transparent, to encourage bids;
- they ensure the independence of the project management assistance firms they consult on factors likely to affect competition between operators, and retain sufficient in-house expertise to monitor contract implementation.

## **Regional rail transport: opening up to competition is an opportunity the regions must seize**

Contracted rail transport was opened up to competition by the 2018 law for a new rail deal. In 2019, the Provence-Alpes-Côte d'Azur (PACA) region launched a competitive bidding process for the operation of two TER lots, one of which was won by SNCF Voyageurs and the other by Transdev. The Hauts-de-France region also put out a call for tender for the "Étoile d'Amiens" lot, which was ultimately won by SNCF Voyageurs.



Competitive bidding seems to be showing its first effects. In the PACA region, for example, SNCF Voyageurs has committed to a regularity target of 98.5% and a 9.5% increase in train kilometres.

The opening up of the sector to competition will become more widespread as, from 25 December 2023, any new contract for the operation of a contracted regional rail transport service (currently operated under the TER brand by SNCF Voyageurs) will have to be subject to competitive bidding.

The *Autorité* notes, however, that the opening up to competition could be delayed by the behaviour of the regions, which are sometimes reluctant to open up their rail transport to competition. For example, the Occitanie region chose to terminate its contract with SNCF Voyageurs and sign a new one before 24 December 2023 – contracts signed before this date can run for ten years and provide for a gradual opening up to competition, or even for opening up to competition only when they expire (i.e. December 2033). The *Autorité* notes that several other regions have postponed competitive bidding of SNCF Voyageurs until at least the end of the 2020s.

Over and above political choices and the resources available to the regions to initiate competitive bidding, the *Autorité* notes that the success of opening up the market also depends on several operators being able to submit solid bids in response to calls for tender and position themselves as credible competitors to SNCF Voyageurs.

At present, this does not seem to be the case, since only a minimum number of candidates are able to complete the competitive bidding process for each tender. For example, in 2019, for one of the two lots opened to competition by the PACA region, only SNCF Voyageurs was able to complete the call for tender process. In this respect, the *Autorité* recalls that the competitive bidding process launched by the French State in 2020 for the operation of the “Intercités” lines proved unsuccessful, as no bids other than that of SNCF Voyageurs were received.

This situation can be explained by a number of factors, including the cumbersome nature of the calls for tender concerned and the uncertainties of the competitive bidding schedules of certain regions, as well as the existence of a large number of barriers to entry, some of which are the same as for freely organised markets; they include difficulties in accessing service facilities, the question of transferring rolling stock and staff, problems in accessing spare parts or the data needed to prepare a bid, the intervention of SNCF Réseau in the examination of bids at the request of certain regions, and so on.

Faced with these risks and barriers to entry, it is essential that encouraging operators with the means to do so to submit bids is at the heart of the regions' concerns, and a central aspect of their competitive bidding processes. The *Autorité* has identified a series of best practices that regions could implement to boost competition in the tenders they organise, in order to benefit from the virtuous effects of putting companies in competition with each other.

In addition to lowering service costs, opening up to competition gives regions greater freedom, particularly in the terms of the contract they sign with an operator. Regions can, for example, choose to promote intermodality and sustainability, or demand an increase in the offer. The *Autorité* considers that the investments made by the regions at the time of competitive bidding offer long-term benefits.

The *Autorité* is also making recommendations to the French State and SNCF Réseau to help neutralise certain identified competitive risks.

### **Recommendations**

- The *Autorité* recommends that SNCF Réseau show flexibility towards the requests of candidates and organising authorities, from the call for tender phase, so as not to discourage new entrants and innovation on the market.

- The *Autorité* recommends that the French Directorate General for Infrastructure, Transport and Mobility (*Direction générale des Infrastructures, des Transports et des Mobilités*, DGITM) follow up with operators regarding the difficulties they are encountering with staff transfers, and, if necessary, amend the regulatory framework to specify the terms and conditions thereof.
- The *Autorité* invites the organising authorities of rail transport services to intensify their exchanges and feedback on the competitive organisation of this mode of transport, particularly within the associations of which they are members. This work could usefully lead to the drafting of a best practice guide, or even, at a later stage, to more structured bilateral or multilateral cooperation, or even the creation of a shared centre of expertise, depending on the regions' interests.
- The *Autorité* is prepared to contribute to this within the limits of its powers, and invites the ministries concerned and the ART to respond, where appropriate, to requests from AOMs on this subject, in accordance with the principle of the self-government of local and regional public authorities.

### **Best practice**

While the regions are free to organise their calls for tender under the conditions they deem best suited to achieving their mobility policy objectives, encouraging competition at the stage when the general economics of contracted transport contracts are being considered can give them new levers with which to achieve these objectives. This may require:

- accurately defining the transport services and contractual mechanisms they want to put in place, and letting operators differentiate their offers;
- limiting, as far as possible, interactions between bidders and SNCF group companies when these are essential to the creation of bids, and making every effort to formalise and centralise these relationships;
- asserting their role in the face of the omnipresence of SNCF group entities, and not relying on them during calls for tender; in particular, the *Autorité* recommends that the regions stop asking SNCF Réseau to analyse the bids they receive and that they equip themselves with the means to evaluate bids without transmitting them, even anonymised, to the infrastructure manager;

- considering that many factors are likely to hinder or, on the contrary, favour competition between bidders, and avoiding increasing the number of decisions that exclude or disadvantage new entrants. The accumulation of such choices could be read as a signal by the market and, in the long term, encourage operators and in particular SNCF Voyageurs to submit higher bids to the regions in question. The benefits of opening up to competition for passengers and regional taxpayers would then be lost.

## **The role of stations in competition: the challenges of intermodality**

In [Opinion 09-A-55](#), the *Autorité* has already analysed the competitive issues specific to railway stations. In this opinion, the *Autorité* stressed that these infrastructures are not “mono-modal” and must meet intermodal needs. The multimodal nature of railway stations, which may initially have been limited to the presence of a car park or taxi rank, has been steadily growing ever since. In addition, the liberalisation of intercity coach transport has made it necessary to develop a second type of station, namely bus stations, which can also be multimodal, particularly when they are located in or close to a railway station.

The *Autorité* notes that, overall, its recommendations have been taken into account in regulations.

### **Railway stations**

In France, SNCF Gares & Connexions is the sole manager of railway stations, which have long been qualified by case law as critical infrastructure. It has been the manager of all station facilities since 1 January 2020.

SNCF Gares & Connexions was created in response to a recommendation made by the *Autorité* to separate station management and operation from the incumbent transport operator. However, despite the transfer of SNCF Gares & Connexions to the infrastructure manager SNCF Réseau, the operational management of stations continues, in practice, to be largely carried out by the railway company SNCF Voyageurs. This company is the main, or even, exclusive user of stations and, as such, can achieve significant economies of scale in their operation. This is the "carrier-integrator" model [1].

Because SNCF Gares & Connexions has little control over this organisation, it poses a number of problems, as highlighted by the French Court of Auditors (*Cour des comptes*) and the ART.

The investigation carried out as part of this opinion has shown that there are three possible ways of managing railway stations: own station management by SNCF Gares & Connexions, the carrier-integrator model, or transferring station management to the organising authorities.

In the *Autorité*'s view, the carrier-integrator model poses a number of problems in the context of opening up rail transport to competition. In addition to the 46 stations managed by SNCF Gares & Connexions, as the market opens up to competition, railway companies will be required to operate in stations currently managed by SNCF Voyageurs.

In the *Autorité*'s opinion, competitive bidding for contracted transport services is incompatible with the carrier-integrator model, which is based exclusively on SNCF Voyageurs.

The *Autorité* also notes that it is in the interest of AOMs to be more involved in station management, insofar as they bear the costs of managing stations served only by contracted rail transport, and can have station management delegated to them [2].

For stations served by TERs, delegating their management to the organising authorities and including them in calls for tender for contracted transport would seem to be the best solution.

However, this model is not taking hold. Delegating station management to AOMs is an option, which they are not obliged to take up.

In addition, the crisis of the carrier-integrator model in the context of opening up to competition could also have an impact on the quality of service offered to station users:

- This difficulty is primarily due to the poor performance of SNCF Gares & Connexions. In its 2021 report on passenger rail stations, the French Court of Auditors (*Cour des comptes*) highlighted SNCF Gares & Connexions' poor internal performance, which contributed to the fragility of its business model. In particular, it noted that SNCF Gares & Connexions did not take service quality sufficiently into account, and pointed to the lack of specifications to define the precise service quality expected and set the level of service corresponding to each category of station.
- Vigilance is also required regarding the effects of opening up to competition on station accessibility for people with reduced mobility (PRMs). The *Autorité* therefore invites the different stakeholders to take this issue into consideration upstream to guarantee station accessibility.

## Recommendations

The *Autorité* recommends:

- greater involvement of organising authorities in the management of station operations;

- SNCF Gares & Connexions to continue to encourage the regions to take an interest in and take charge of station management, and to set up an effective and transparent governance framework for the carrier-integrator model and station management, so that management can be taken over by the organising authorities;
- SNCF Gares & Connexions to set up standardised specifications for the different types of stations and link them to a multi-annual fee pricing system (which would require Decree 2003-194 of 7 March 2003 to be amended).

### **Best practice**

- The *Autorité* invites the organising authorities to include the accessibility of stations and contracted services for PRMs in the responsibilities of railway companies and the station manager(s).
- It advises the regions to anticipate competitive bidding in contracted rail transport by requesting the application of the "single-carrier" decree in order to have station management delegated to them, so that it can be included in TER calls for tender or organised separately.

## **Bus stations**

According to the typology established by the ART, 76 of the 327 facilities listed in the public register kept the ART are bus stations. The nature of the operators is very diverse: they can be local and regional public authorities (communes, regions), groups of local and regional public authorities or operators such as Keolis (which operates bus stations in Caen and Nîmes) and Transdev (which operates bus stations in Lens, Le Mans and La Réunion). SNCF Gares & Connexions operates around 50 bus stations linked to railway stations, forming multimodal hubs.

The *Autorité* finds that the situation of bus stations in France is unsatisfactory and constitutes an obstacle to the development of coach services. In practice, industry players paint a negative picture of existing bus stations. Some of the problems reported by players fall within the ART's remit, in terms of fees for accessing bus stations, but it is mainly capacity, saturation and quality issues that are raised.

- As far as insufficient capacity is concerned, this is mainly due to material and technical constraints, as many bus stations are designed for regular contracted urban or intercity transport lines, which are very busy during rush hour, reducing the number of slots available for long-distance transport during these times. In addition, some bus stations are too small to offer slots to new operators, or new slots to existing operators. This situation must be set against the overall under-utilisation of the bus stations operated by SNCF Gares & Connexions, which raises questions about the relevance of their location on a case-by-case basis and the thought that went into their design, in terms of the links between modes of transport.

More generally, since some bus stations are under-utilised while others are saturated, it would seem that the current regional coverage is not optimal and that changes to the decision-making process for new bus stations or the development of existing ones are needed.

- In terms of quality of service, the contributions received point to insufficient interconnections with other modes of transport in a number of bus stations, deplorable levels of safety, hygiene and comfort (particularly in Paris Bercy bus station, but also in Bordeaux and Toulouse), and inadequate passenger information and facilities (waiting rooms, toilets, catering facilities, etc.). As a result, several operators complain about touchdown fees that they feel are too high in relation to the quality of service provided to their drivers and passengers.



It is unlikely that market dynamics will spontaneously lead to a significant improvement in the situation of bus stations. Consequently, in view of the shortcomings identified, the *Autorité* invites local and regional public authorities, as AOMs, to play a role in regulating competition in the sector, by taking a greater interest in the issue of bus stations.

Although many local and regional public authorities have a role to play, the regions, as leaders in intermodality, are particularly concerned and could usefully draw up quality standards, which could then be incorporated into public procurement contracts for bus stations or multimodal hubs.

Depending on the situation, improving the quality of service at existing bus stations may require better training for staff in welcoming users, assisting drivers and providing information on intermodality, services (required by local and regional public authorities in their contractual clauses or at the initiative of operators) to improve cleanliness, comfort and safety, both for passengers and for operators' staff, etc. When the bus station is part of a multimodal hub, a very short transit time between modes of transport is particularly appreciated by passengers. The ART's consultations with bus station operators could contribute to the development of these standards by listing best practices.

The *Autorité* recommends that the regions and Île-de-France Mobilités draw up, in consultation with the ART, stringent, harmonised quality standards for bus stations, make these standards public in their strategic intermodality planning documents, and incorporate them into public service delegation contracts or public-private partnerships for the construction or operation of bus stations and multimodal hubs.

## **Intermodality: station layout and ticketing systems**

The *Autorité* underlines the growing role of intermodality in the transport sector, which makes it essential to consider the link between intermodality and opening up to competition. So, while opening up to competition may, at first sight, complicate intermodality by fragmenting the transport offer, it is a source of innovation and efficiency gains that can promote the development of the offer.

The *Autorité* invites the role of stations to be considered through the prism of intermodality. Stations are hubs for exchanges between modes of land transport, both from a physical point of view, to ensure smooth passenger access to the different modes of transport, and from a commercial point of view.

- ***Development of station surroundings***

The *Autorité* notes that intermodality concerns both the interior of stations and their surroundings. As part of its 2021-2026 performance contract with the French State, SNCF Gares & Connexions also has a role to play in promoting intermodality. In particular, the infrastructure manager is committed to developing bicycle parking, pump stations and repair workshops.

SNCF Gares & Connexions' very important role in the sector, at the intersection of all modes of transport, and therefore ultimately in AOMs' transport policies, can create a risk of a conflict of interest when AOMs launch calls for tender for which other SNCF group companies are candidates. The *Autorité* is proposing a number of best practices to AOMs to mitigate this risk.

### **Best practice**

Insofar as possible, the *Autorité* invites organising authorities to ensure their calls for tender do not coincide with their exchanges with groups whose subsidiaries could take part in these calls for tender, or, if this is impossible, to be as transparent as possible about these exchanges.

- ***Passenger information and ticketing***

Intermodality also involves ticketing and passenger information.

On the face of it, liberalisation seems to be fragmenting transport services, multiplying the number of different commercial conditions and offers, and increasing the complexity of ticket booking. This trend could become more pronounced in the future, in parallel with the opening up to competition, as a number of regions have informed the Investigation Services of their intention to launch regional multimodal ticketing services. These regional ticketing and passenger information services meet the need for the linking of transport services at the local level but could undermine the coherence of transport services at the national level, due to the lack of interoperability between the different systems. Such initiatives could, moreover, foreclose private operators wanting to enter the sector, whose services could better link the regional and national levels.

Here again, the *Autorité* is proposing best practices to AOMs to reduce the identified risks.

### **Best practice**

The *Autorité* recommends that AOMs:

- stimulate competition in the distribution market by making available the data and interfaces needed for all kinds of operators to set up ticketing services for the transport services they organise;
- when creating their own ticketing system, enable interoperability between their system and any other distribution service.

[1] The stations concerned are managed under a cooperation agreement between SNCF Voyageurs and SNCF Gares & Connexions, with SNCF Voyageurs re-invoicing management costs to SNCF Réseau without applying a margin.

[2] This option is available to organising authorities under Decree 2021-966 of 20 July 2021 (known as the "single-carrier" decree), and potentially concerns stations where at least 95% of traffic comes from contracted transport.

### **OPINION 23-A-18 OF 29 NOVEMBER 2023**

on the competitive functioning of the land passenger transport sector

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