11 September 2012: Public Transport

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The Autorité de la concurrence clears the acquisition of sole control of Keolis by SNCF, subject to the maintenance of the commitments made in 2010

> Version française

On 23 July 2012, the European Commission referred the acquisition of sole control of the Keolis group by SNCF to the Autorité de la concurrence[1]. The Autorité carefully examined this operation, which involves the public transport sector and related activities such as consulting, audits and the management of railway stations.

On 12 January 2010, the Autorité de la concurrence cleared the joint takeover of Keolis and Effia by SNCF and Caisse de Dépôt et Placement du Québec (CDPQ) subject to certain commitments[2]. At the time, it considered that the closer ties between SNCF, Keolis and Effia raised a number of competition concerns. The parties accordingly made commitments intended to remedy the concerns identified.

The acquisition of majority control of the Keolis group by SNCF, which has had joint control since 2010, does not alter the necessary and sufficient nature of the commitments made

The Autorité is of the opinion that the competition concerns identified in 2010 also apply to the acquisition of majority control of Keolis by SNCF in 2012. The markets in question have not experienced any major structural changes, and the situations of the parties and of their main competitors are substantially the same. Accordingly, the Autorité de la concurrence is of the opinion that the same competition concerns would exist if no corrective action were taken, and that the necessity of the commitments defined in 2010 has not been obviated by the

move from the joint control of Keolis by SNCF and CDPQ to majority control.

SNCF has therefore reiterated the commitments made in 2010, and has undertaken to continue working to implement them in full, in accordance with the same terms and conditions.

Reminder of commitments made in 2010

• Regarding the quality control services

Effia provides quality control services relating to public transport networks, thereby gathering information that may be confidential.

To prevent Keolis from having access to confidential data relating to its competitors, SNCF and CDPQ undertook that Effia would no longer respond to invitations to tender relating to quality control services involving urban and intercity public passenger transport networks operated by competitors of Keolis.

• Regarding the urban and intercity road transport market

Guaranteed connection agreements

The guaranteed connection agreements signed between SNCF and public road transport operators define inter alia the provisions for shared information and the conditions under which coaches will wait in the event that trains are delayed.

To prevent SNCF from unduly favouring guaranteed connection requests from Keolis to the detriment of other public transport operators, SNCF undertook to respond in a transparent and non-discriminatory manner to any request received from any other operator of public road transport of passengers regarding the signature of a guaranteed connection agreement.

Access to forecasted schedules

Forecasted schedules are used by operators of public passenger transport in order to define and modify their transport offers.

To prevent any risk of exclusion or discrimination regarding access to such information, SNCF undertook to provide, under transparent and non-discriminatory conditions, the forecasted schedule of its passenger rail transport services for the coming year to any public passenger road transport operator requesting this information.

Access to schedule changes

In the event of maintenance work or other works, modifications to the theoretical transport plan may be made by the infrastructure operator, Réseau Ferré de France (RFF).

To prevent SNCF from delaying the transmission of information regarding schedule changes to competitors of Keolis or from altering the quality of the information provided, it undertook to make information concerning modifications made to any current theoretical transport plan by the infrastructure operator available in a transparent and non-discriminatory manner to any operator of public passenger road transport requesting this information in a written form.

• **Regarding access to services in railway stations**

SNCF manages railway stations through its subsidiary Gares et Connexions. Given the pivotal role of railway stations as the linchpin between the various transport modes, users may wish to have access to information concerning the urban and intercity public transport networks serving a given railway station.

To prevent SNCF from favouring Keolis' requests regarding the provision of passenger information services in railway stations, SNCF undertook to prepare, during the first half of 2010, a catalogue of the railway station services available to all passenger road transport operators providing connections to and from the railway stations in question, and to award them in a fair and non-discriminatory manner.

(1) See press release of 3 August 2012
(2) See décision n° 10-DCC-02 of 12 January 2010 on the joint acquisition of Keolis and Effia by SNCF-Participations and Caisse de Dépôt et Placement du Québec

(available in French only), and the press release of 13 January 2010

> Full text of Decision 12-DCC-129 of 5 September 2012 will soon be available on this page (in French)

> Press contact : André Piérard - Tel.: +33 1 55 04 02 28