# 27 June 2013: Passenger transport sector

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**The Autorité de la concurrence declines to impose emergency measures against SNCF, but will continue to investigate the merits of TRANSDEV's complaint**

> ***Version française***

**TRANSDEV**[1] filed a complaint with the Autorité de la concurrence against practices implemented in the public transport sector by the **SNCF** Group which, according to the complainant, favoured its subsidiary **KEOLIS**[2] by taking advantage from its own monopoly on rail services.

TRANSDEV's complaint included a request for interim measures, requesting that **SNCF PARTENARIAT** be prohibited from submitting bids in a grouping with KEOLIS for calls for tender from transport authorities and their agencies, and that various measures be designed to stop the "confusion" between the incumbent railway operator and the competing urban transport subsidiary.

In the decision which it has just issued, the Autorité de la concurrence rejects the request for interim measures, on the grounds that the conditions for granting such measures have not been met, but considers that the investigation of the merits of the case should continue, in order to examine whether the SNCF Group has infringed competition rules by giving advantage to its urban transport subsidiary KEOLIS to the detriment of its competitors.

**TRANSDEV accuses SNCF of abusing its dominant position, by allowing its**

**subsidiary KEOLIS to benefit from its railway expertise**

TRANSDEV's complaint to the Autorité follows the granting, at the end of 2012, of a technical support contract for operating transport services by **Compagnie des transports** strasbourgeois (a semi-public company operating the urban transport network for the urban community of Strasbourg). This public contract was awarded to a joint grouping consisting of KEOLIS and SNCF PARTENARIAT, a subsidiary of the SNCF Group, which provides railway expertise to local authorities, their organisations and agencies.

TRANSDEV accuses SNCF of abusing its dominant position in the national passenger rail transport market, by deliberately maintaining confusion between its activities as a monopoly and its activities in the competitive sector. According to the complainant, in the urban transport sector, it is able to mobilise resources that its competitors are not in a position to reproduce, in particular with regard to solutions for intermodality with heavy rail transport.

The Autorité has already noted, in a previous opinion[3], that urban transport contracts generally have a growing need for intermodality. In this context, and in the current state of the investigation, the Autorité considers that the rail expertise was a key criteria in Strasbourg's choice when awarding the technical support contract. The SNCF Group therefore mobilised significant human, technical, material and intangible resources to support KEOLIS, which seem likely to have given KEOLIS an advantage.

**The Autorité de la concurrence will not impose emergency measures, but will continue to investigate the merits of the complaint**

Such practices, which seek to drive out, discipline or discourage competitors, using processes that do not involve competition on merit, implemented by companies able to mobilise resources from monopoly markets (rail transport) in markets open to competition (technical support contract for urban transport operators), are likely to constitute an abuse of a dominant position and require in-depth investigation.

Moreover, the methods of diversification operated by the SNCF Group raise questions, which deserve to be examined in-depth.

**The Autorité de la concurrence has decided to continue investigating the merits of the case, without issuing interim measures**, given that the conditions justifying urgent measures have not been met (lack of serious, immediate harm to the general economy, to the sector, to consumer interest, or to the complainant company).

The investigation on the merits will examine the resources mobilised by the SNCF group in support of KEOLIS, and whether these resources can be reproduced by TRANSDEV or by any other competitor.

*(1) TRANSDEV was the result of the merger, in 2000, of the companies VEOLIA TRANSPORT, a subsidiary of VEOLIA ENVIRONNEMENT, and TRANSDEV, a subsidiary of Caisse des dépôts et consignations. See the Press release of 30 December 2010 on the Autorité's Decision N°10-DCC-198 of 30 December 2010.*
*(2) SNCF PARTICIPATIONC has sole control over the KEOLIS group, following a merger operation, authorised by the Autorité subject to conditions. See the Press release of 11 September 2012 on the Autorité's Decision N°12-DCC-129 of 5 September 2012.*
*(3) Autorité's Opinion n°09-A-55 of 4 November 2009 on the passenger public land transport sector. This Opinion examined several issues involved in the present case, focusing mainly on the place of rail transport in the transport requirements of local authorities and their organisations, the needs for intermodality by the transport authorities and the risks related to diversification of the incumbent operator in the various passenger public transport contracts.*

***> Full text of Decision 13-D-16 on a request for interim measures relating to practices implemented by the SNCF Group in the passenger transport sector (in French)***

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