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

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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 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.

PRESS RELEASE OF 29 NOVEMBER 2023

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