



Department of Transport

Statement of Strategy 2008-2010

Comments of the Competition Authority

September 2007

S/07/004



The Competition Authority
An tÚdarás Iomaíochta

Table of Contents

1.	Introduction	2
2.	The Role of Competition in Public Transport	4
	The Department's High Level Goals for Transport Policy	4
	Guiding Principles	4
3.	Public Transport Strategies.....	6
	Public Transport Objective – Competition, Regulation and Reform.....	6
	Independent regulation of public transport	7
	Bus competition in the Greater Dublin Area	8
4.	Public Transport Integration	9
	Real Time Passenger Information	10

1. INTRODUCTION

- 1.1 The Competition Authority welcomes this opportunity to offer inputs to the drafting of the Department of Transport's next Statement of Strategy, 2008-2010. While a number of initiatives were achieved under the 2005-2007 Statement of Strategy, some key objectives have not been addressed and need to be progressed during the life of the next Strategy Statement.
- 1.2 Transport infrastructure forms a critical underpinning to the competitiveness of the Irish economy. Better transport infrastructure and linkages are beneficial not only on their own account, but also for their positive impacts on the economy. In this respect good transport links provide economic benefits beyond parties not directly involved.
- 1.3 These comments focus in particular on the Department's objectives for public transport. Public transport facilities need to evolve in line with changing patterns of public transport demand. Competition has a central role to play in fulfilling consumer demand in the most efficient and cost-effective way possible.
- 1.4 The regulatory system for public transport needs to be radically overhauled in order to evolve and meet changing consumer demands. For example, the Department must regulate bus transport for the 21st century using legislation passed in the 1930s. Outdated economic regulation of this kind restricts consumer choice and entrepreneurial initiative by preventing the emergence, in any meaningful sense, of real competition in the public transport market. The *Regulating Better* principles provide clear guidelines for the provision of effective regulation.
- 1.5 Overhauling regulation to allow for competition in the market will also require the creation of structures to integrate information, fares and ticketing in order to provide consumers with a seamless travelling experience. Accordingly, tangible progress will need to be made towards the introduction of an integrated fares and ticketing scheme for public transport for the Greater Dublin Area, as well as integrated real-time passenger information.
- 1.6 Accordingly, the Competition Authority makes the following recommendations for inclusion in the 2008-2010 Statement of Strategy. In what follows, most suggested textual changes or amendments refer to the text of the current Strategy, to expire at the end of 2007.

Recommendation 1

The Department's Mission Statement should be altered to reflect the role which competition can play in an effective, efficient and consumer-oriented transport policy.

Recommendation 2

The wording of the regulation principle should be changed to a phrase such as "*We will promote competition.....*", allowing for the role which regulation, economic or otherwise, can play.

Recommendation 3

The next Statement of Strategy should commit to publication and enactment of legislation to replace the 1932 Road Transport Act as soon as possible.

Recommendation 4

The phrase “.....administer the existing market regulatory framework under the Road Transport Act 1932 as effectively as possible, pending new legislation as anticipated in the Agreed Programme for Government” under the Competition, Regulation and Reform strategies should be deleted.

Recommendation 5

The Department should expedite the creation of a National Transport Regulator as a key Public Transport Objective.

Recommendation 6

Clear targets for the progressive liberalisation of the bus market in the Greater Dublin Area should be set out. This requires setting percentages for progressive opening of the entire market year-on-year. As an initial figure, the Department should refer to the percentage recommended by the Minister in 2002 of 25% opening by means of franchising in Year 1.

Recommendation 7

The Department should ensure the implementation by the Dublin Transport Authority of integrated ticketing in the lifetime of the next Statement of Strategy.

Recommendation 8

The Department's Statement of Strategy should maintain a clear commitment to promote the provision of real-time passenger information and to support the work of the Dublin Transport Authority in this regard. The Government, as owner of CIÉ, should require its constituent companies to ensure that any real time passenger information schemes are inter-operable with other public transport providers.

2. THE ROLE OF COMPETITION IN PUBLIC TRANSPORT

2.1 The introduction to the Department of Transport's 2005-2007 Statement of Strategy laid out the Department's intention to deliver an integrated transport policy designed, among other things, to "*provide the consumer with greater choice by offering alternative modes of transport and competitive access transport.*"¹ The Competition Authority fully supports this position and urges the Department to continue its focus on consumer choice and competition in the next Statement of Strategy.

2.2 The Department's current **Mission Statement** is

"To underpin Ireland's economic growth and competitiveness and contribute to social development through the efficient and effective delivery of an appropriately regulated, sustainable, safe and integrated transport system".

The Mission Statement refers only to regulation, but not to competition. Regulation is certainly appropriate to ensure high standards of driver training or vehicle safety, for example. Where market failures arise, economic regulation may be an appropriate tool, but this regulation should be as light-handed as possible. Where feasible, competition should be allowed to develop. Economic regulation is a poor second-best to competition and should only be employed where there is a clear and evident need to do so.

Recommendation 1

The Department's Mission Statement should be altered to reflect the role which competition can play in an effective, consumer-oriented transport policy.

The Department's High Level Goals for Transport Policy

2.3 It is appropriate that **Competition, Regulation and Reform** should form one of the Department's **High Level Goals**. The Department should maintain, or better yet, increase, its emphasis on this goal in its next Statement of Strategy.

Guiding Principles

2.4 The Department currently lists eight **Guiding Principles**² which are designed to inform its approach to developing its mission in the medium to long term. These Guiding Principles are useful tools, especially where they underpin competitive outcomes. In this regard, the emphasis under the "*We will facilitate access*" principle on facilitating competitive industry and the emphasis under "*We will improve integration*" principle on integrating infrastructure, timetables, fares, ticketing and information are important, and should be renewed.

2.5 "*We will regulate to optimise efficiencies*" recognises that regulation, when implemented appropriately and proportionately, can play a positive role in the market, for example, by reducing barriers to entry. The principle goes on to state that competition policy, economic

¹ Department of Transport, *Statement of Strategy 2005-2007*, p.3

² *Ibid.*, p.17

regulatory policy and structural reform are to be applied as appropriate in the context of a clear rationale for state intervention.

2.6 Economic regulation of the Irish public transport market takes a number of forms:

- Licensing Restrictions;
- Price Regulation of fares;
- Approval of funding to state-owned providers; and
- Route selection.

2.7 It should be recognised that economic regulation is a second-best solution to competition and introduces distortions in the demand and supply balance in the market. It should only be retained where competition cannot or is unlikely to work due to market failures. This should be recognised in the emphasis of the Guiding Principle, which should focus firstly on the promotion of competition, where appropriate, and only then on regulation.

Recommendation 2

The wording of the regulation principle should be changed to a phrase such as “*We will promote competition.....*”, allowing for the role which regulation, economic or otherwise, can play.

3. PUBLIC TRANSPORT STRATEGIES

- 3.1 The 2005-2007 Statement of Strategy recognised that a safe, reliable and efficient public transport system was one of the key infrastructural underpinnings of any competitive economy. In order to deliver this level of service provision, public sector policy needs to be proactive and innovative. In this respect, the next Statement needs to recognise that the public transport system is too often stymied by an unresponsive and antiquated system of regulation which fails to correspond to the needs of business and personal consumers.
- 3.2 While the current Statement recognised that the transformation of the public transport system would take longer than three years, it expected that substantial progress would be made over three years. In the event, progress has been slow and few tangible deliverables are evident.

Public Transport Objective – Competition, Regulation and Reform

- 3.3 A key public transport objective outlined in the 2005-2007 Statement was to

“Use competition, economic regulation and structural reform to enhance the delivery of public transport services”.

In this regard, the current Statement outlined a range of Strategies and Outputs designed to enhance service delivery. However, little progress has been achieved to date in altering public transport regulatory structures. For example, reform of the Road Transport Act 1932 has been a stated aim for many years, yet bus licensing is still subject to outdated legislation originally designed to protect railways from road transport competition.³

- 3.4 There is broad consensus that the 1932 Act should be repealed, but relatively little progress is evident. Given the increasing demands being placed on transport infrastructure, both in the Greater Dublin Area and nationally, it is of vital importance that a reforming Bill is published and enacted as soon as possible.
- 3.5 Therefore, one of the Key Performance Indicators (KPIs) in the current Statement of Strategy, namely *“Enactment and implementation of reform legislation”*, should be retained.

Recommendation 3

The next Statement of Strategy should commit to publication and enactment of legislation to replace the 1932 Road Transport Act as soon as possible.

- 3.6 The strategy to

“administer the existing market regulatory framework under the Road Transport Act, 1932, as effectively as possible, pending new legislation as anticipated in the Agreed Programme for Government”

³ Ribault-O’ Reilly, A., 2005. “A Review of the Regulatory Environment for Bus Transport in Ireland” in ESRI Quarterly Economic Commentary, Winter 2005, p.66

should be removed from the next Statement of Strategy.

It is simply not possible to regulate **effectively** for the market using the provisions of the 1932 legislation. The 1932 Act is self-evidently unfit for purpose, as it hinders and prevents the emergence of competition and innovation. Thus, under the current regulatory framework, it is only possible to regulate *ineffectively, inefficiently and incoherently*. This is not the fault of the Department, but of the legislative constraints imposed by the 1932 Act.

Recommendation 4

The current phrase “.....administer the existing market regulatory framework under the Road Transport Act 1932 as effectively as possible, pending new legislation as anticipated in the Agreed Programme for Government” under the Competition, Regulation and Reform strategies should be deleted.

Independent regulation of public transport

3.7 The 2005-2007 Statement lists as one strategy: “*Establish independent structures to procure and regulate public transport services*”.

3.8 The Department's objective here was in line with stated Government policy. Nevertheless, no tangible results have yet been seen with respect to the creation of a transport regulator or regulatory body. The 2007 Agreed Programme for Government makes specific provision for the establishment of a Dublin Transport Authority, while promising to

“examine the need for a National Transport Regulator in the context of the fundamental review of the entire economic regulatory regime which will be established immediately.”

The Department's Statement of Strategy should reflect this prioritisation. The Department's current position as shareholder, regulator and policy-maker in the public transport arena is simply not tenable, nor does it reflect best practice in other infrastructural sectors, such as telecommunications or energy.

3.9 Under the current system of regulation, school bus, intercity and rural bus services are all regulated by the owner of the incumbent operator. The absence of an independent regulatory body for transport acts as a significant barrier to entry to the public transport market as firms are unlikely to enter where the regulator also owns the largest participant in the bus and rail markets.

Recommendation 5

The Department should expedite the creation of a National Transport Regulator as a key Public Transport Objective, and publish the appropriate legislation to facilitate this.

3.10 According to the Department's website, the Minister expected in June 2007 to be in a position to bring legislative proposals to the Government in July to facilitate early publication of a Bill to establish the Dublin Transport Authority, in line with the Programme for Government. The Authority welcomes these firm proposals concerning

the establishment of the DTA and recommends that the Department's Statement of Strategy should incorporate firm deliverables with respect to the creation of the DTA, its staffing, funding and resourcing. The DTA, if properly resourced and given appropriate powers, can act as a powerful catalyst for promoting better public transport in Dublin by reducing barriers to entry and promoting competitive outcomes in the market.

Bus competition in the Greater Dublin Area

- 3.11 There needs to be clarity on how the bus market in the Greater Dublin Area is to be liberalised. The Department's 2006 Annual Report states that the market will be opened on a phased basis under the responsibility of the DTA. This needs to be expedited quickly. The provision of extra buses to Dublin Bus may be thought necessary to satisfy demand for services, but it also facilitates the entrenchment and consolidation of the position of Dublin Bus prior to liberalisation of the market. In this regard, careful consideration must be given to the way in which Dublin Bus is funded and how this may impact on future liberalisation of the bus market in the Greater Dublin area.
- 3.12 In November 2002, the then-Minister proposed opening up 25% of bus routes in the Greater Dublin Area to competition by means of franchising by 2004, with further progress in subsequent years.⁴ In order to send a clear signal to potential market entrants that the Government supports competition in the bus market in the Greater Dublin Area, clear quantitative targets for market opening need to be set out. Liberalisation should ultimately apply to the entirety of the bus route network in Dublin, rather than just new routes, as to do otherwise would maintain the incumbent advantages held by Dublin Bus.

Recommendation 6

Clear targets for the progressive liberalisation of the bus market in the Greater Dublin Area should be set out. This requires setting percentages for progressive opening of the entire market year-on-year. As an initial figure, the Department should refer to the percentage recommended by the Minister in 2002 of 25% opening by means of franchising in Year 1.

⁴ Statement on Public Transport Reform to the Public Transport Partnership Forum, November 7th 2002.

4. PUBLIC TRANSPORT INTEGRATION

4.1 Integrated ticketing has been a central theme of transport policy for the Greater Dublin Area for many years.⁵ In more recent times –

- The **Transport 21** Greater Dublin Area programme undertakes to introduce a smartcard integrated ticket which can be used on all public transport facilities.⁶ However, no progress on integrated ticketing has been reported on Transport 21's monthly website updates.⁷
- The June 2007 **Agreed Programme for Government** renews commitments to introduce integrated ticketing and smartcard technologies, integrated fares and integrated passenger information. It promises the establishment of the Dublin Transport Authority (DTA), a regulatory body which will have overall responsibility for surface transport in the Greater Dublin Area. The DTA will be responsible for delivery of integrated ticketing, fares and passenger information.⁸

4.2 Integrated ticketing is fundamental to the successful promotion of competition in public transport to the benefit of the travelling public. It has two key advantages for public transport in a competitive environment:

- Facilitating market entry by providing a common ticketing platform for all public transport operators
- Facilitating greater use of public transport by consumers by lowering transaction costs and “hassle”. Where different routes are operated by competing firms, consumers engaging in multi-stage travel need to be able to transfer between routes seamlessly and effectively.

4.3 Where non-integrated ticketing becomes entrenched, consumers will be less likely to avail of the services of multiple transport operators due to increased transaction costs. Non-integrated ticketing may also reinforce incumbent advantages, as consumers are more likely to use a ticketing system with which they are familiar.

4.4 The absence of fully integrated smart card schemes acts as a significant barrier to entry to other public transport firms, as consumers are less likely to use other public transport providers where this involves using a second ticketing system. It could also act as a barrier to efficient

⁵ *Proposal for Integrated Ticketing in the Greater Dublin Area – (2000) Report of Integrated Ticketing Committee* <http://www.transport.ie/upload/general/2648-0.pdf> The Report envisaged that integrated ticketing would be introduced to Dublin Bus, suburban rail services and the LUAS during the course of 2003.

Also, *Feedback on the LUAS Smart Card*, RPA <http://www.rpa.ie/?id=322>

Also, *DTO Advice Note – Public Transport Interchange*, p.5 <http://www.dto.ie/interchange.pdf>

Also, *DTO, A Platform for Change*, p.13 <http://www.dto.ie/platform1.pdf>

Also, following a recommendation in December 2006 from the chairman of the *Integrated Ticketing Project Board* that integrated ticketing for Dublin be progressed on the basis of smart card technology, the Minister approved the progression of the project to procurement stage, subject to the approval of the boards of the public transport operating companies and the ITPB.

⁶ *Transport 21 First Annual Progress Report 2006*, p.2

⁷ “Two Investment Programmes Under Transport 21”

http://www.transport21.ie/WHAT_IS_TRANSPORT_21/TRANSPORT_21/Two_Investment_Programmes_Under_Transport_21.html

⁸ 2007 *Agreed Programme for Government*

http://www.taoiseach.gov.ie/attached_files/Pdf%20files/NewProgrammeForGovermentJune2007.pdf

market exit if a firm had invested significant sunk costs in its own ticketing technology. This would contradict the Government's policy of delivering real commuting choice in the public transport sector.

- 4.5 Progress in respect of integrated ticketing has been very slow. Press Reports suggest that difficulties continue with the development of the project (it now appears that the project will not be ready until 2010, five years after the original deadline).

Since 2000, integrated ticketing has been a primary concern of many different programmes and agencies, yet no tangible results have been forthcoming. The division of responsibility between so many agencies does not lend itself to a comprehensive, end-to-end approach and has led to a failure to strongly drive the project forward. The longer integrated ticketing is delayed, the longer consumers will be denied the benefits of competition in public transport.

- 4.6 The Authority urges the Department to redouble its efforts to introduce integrated ticketing during the lifetime of the next Statement of Strategy. In line with the 2007 Agreed Programme for Government, clear responsibility for delivery must be given to a **single agency**; most likely the Dublin Transport Authority. Until the establishment of the DTA, the Integrated Ticketing Project Board (ITPB) should play this role. Clear funding arrangements should be put in place for this agency and the objectives of other entities, notably the RPA and the DTO, should be reviewed to assess what, if any, role they should play in developing integrated ticketing.

Recommendation 7

The Department should ensure the implementation by the Dublin Transport Authority of integrated ticketing in the lifetime of the next Statement of Strategy.

Real Time Passenger Information

- 4.7 The current Statement of Strategy supports integrated information provision. As with integrated ticketing, integrated passenger information is a prerequisite in a public transport market characterised by competition both between and within modes. Competition will not work effectively if users are not able to accurately plan journeys using different modes of transport or different operators.
- 4.8 To this end, the DTO's November 2001 Strategy Report, "*A Platform for Change*" indicated that part of its integration strategy was to provide real-time passenger information.⁹ The DTO's 2003 *Advice Note on Public Interchange* furthermore recommended that a network-wide information strategy, including the use of real-time passenger information, covering all modes of transport should be formulated.¹⁰
- 4.9 Unlike integrated ticketing, a single agency, the DTO, has evolved a clear set of recommendations for the implementation of real-time passenger information, and it is understood that this work will be taken by the Dublin Transport Authority. Given the importance of real-time passenger information in the context of the development of a

⁹ DTO, *A Platform for Change*, p.13 <http://www.dto.ie/platform1.pdf>

¹⁰ DTO *Advice Note – Public Transport Interchange*, p.21 <http://www.dto.ie/interchange.pdf>

competitive market, the Department's objective should be retained in the next Statement of Strategy and a progress update with reference to the role of the DTA should be included in the 2007 Annual Report.

Recommendation 8

The Department's Statement of Strategy should maintain a clear commitment to promote the provision of real-time passenger information and to support the work of the Dublin Transport Authority in this regard.

The Government, as owner of CIÉ, should require its constituent companies to ensure that any real time passenger information schemes are inter-operable with other public transport providers.

grown

productivity

[illegible]

vigorous
competition
drives
productivity
growth,
innovation
and
value
for
all
consumers
in
the
economy

economy

growth
economy

economy

the
in
consumers
all
for
value
and
innovation
Growth
drives
competition
laborious
productivity

growth

www.tca.ie