



The Competition Authority
An tÚdarás Iomáiochta

1. COMPETITION AUTHORITY INPUT TO STRATEGY STATEMENT 2011-2013

Introduction

- 1.1 The Competition Authority welcomes the opportunity to make inputs into the drafting of the Department of Transport's next Strategy Statement, covering the period 2011 – 2013. The Authority notes the considerable progress made since the Department sought inputs to its previous (2008 – 2010) Strategy Statement, notably in the passing of the Public Transport Regulation Act, 2009, and the establishment of the Dublin Transport Authority and, subsequently, the National Transport Authority ("NTA"). In legislative and institutional terms, this creates a solid platform for the development of a vibrant and competitive public transport service.

Input to previous Strategy Statement (2008 – 2010)

- 1.2 In response to the invitation to provide inputs to the previous Strategy Statement, the Authority made eight Recommendations. As the draft Strategy Statement itself was not made available for public consultation, these referred in some instances to the text of the Strategy Statement before that again, covering 2005 – 2007. A list of these recommendations and the Authority's views on their implementation status is given in Annex I. Of those which have not been implemented, many remain valid.
- 1.3 Indeed, some have had their importance increased by the economic problems which have beset Ireland in the past few years. Notably, the Authority would wish to see emphasised the role that competition can play in reducing costs and improving services to consumers. In the current Strategy Statement, the role of competition is mentioned in the High Level Goal on "Regulation and Reform":

"To enhance the efficiency and effectiveness of transport services through competition, economic regulation, institutional reform and corporate governance of State agencies."

- 1.4 However, the extent to which this has been carried through in practice is debatable. The implementation of the bus passenger licensing system under the 1932 Transport Act has not appeared to prioritise competition, and the Draft Guidelines for the Licensing of Public Bus Passenger Services, issued by the NTA in July 2010 and currently under public consultation, appear to take a purely negative view of competition as potentially affecting the viability of service provided under the Public Service Obligations ("PSO") of Dublin Bus and Bus Éireann. Pressure on the public finances means that it is increasingly important that subsidies should be targeted at where they are genuinely needed, and that services which are commercially viable should not receive a subsidy.

- 1.5 The Authority recognises that determining which routes form part of the PSO is now the responsibility of the NTA, as is licensing of services. However, it notes that the Minister has powers under Section 26 of the Dublin Transport Authority Act 2008 ("the 2008 Act"), as amended, to give policy directions in writing to the Authority regarding any of its functions under the Act. Additionally, the Minister may, at any time (Section 26 of the 2008 Act) issue guidelines in writing to the Authority regarding any of its functions under the Act. Thus the Department has the potential to create a policy environment which encourages competition and lowers costs. In addition, a more liberal licensing regime will allow the development and evolution of services which are responsive to the needs of consumers and contribute to the achievement of key Government policies such as economic and financial stability and accelerating the return to economic growth.
- 1.6 The Authority considers that the following recommendations from its input to the Department's previous Strategy Statement remain valid:
- Increased emphasis on role of competition in reducing costs and improving services to consumers;
 - Clear targets for the progressive liberalisation of the bus market in the Greater Dublin area;
 - Implementation of integrated ticketing;
 - Provision of real-time passenger information.

Input to Strategy Statement 2011 - 2013

- 1.7 In addition, the Authority has the following inputs, based on the headings in the Public Transport section of the 2008 - 2010 Strategy Statement:

Objective: Better Public Transport

- 1.8 The strategies in the 2008 - 2010 document largely relate to investment, reflecting the different economic climate which prevailed three years ago. The next strategy statement should emphasise value for money and the direction of scarce public resources to where they are most needed. Where the private sector is willing and able to operate a service, the need for public subsidy should be re-examined.

Public Service Contracts and Transparency

- 1.9 The sixth strategy under this objective is: "Provide adequate support for and ensure value for money, transparency and service improvements in respect of State public service obligation payments for public transport services". The current arrangements regarding the PSO do not appear to meet these requirements. The Public Service Contracts between the NTA and Bus Átha Cliath/Dublin Bus, and between the NTA and Bus Éireann, include the entire network of Dublin Bus, and the network of Bus Éireann in the Greater Dublin Area, in the PSO, without distinguishing between routes which are profitable and those which are in need of subsidy. The only information provided

about which routes are covered is in two network maps, in PDF format and of very poor quality, attached to the contract. No information on timetables or on quality of service requirements is provided. This lack of transparency makes it difficult for potential competitors to know where a licence application is likely to be successful. It is also impossible to distinguish whether or not the Public Service Contracts represent value for money for the taxpayer.

Integrated Ticketing and Information

- 1.10 The seventh strategy is: "Support measures to promote better integration of public transport, including physical interchanges, park and ride, integrated ticketing, and integrated information provision, across the public transport network, particularly in the Greater Dublin Area." The Authority is not in a position to comment on the physical interchanges or park-and-ride aspects, but the integrating ticketing and integrated information provision have not been achieved.

Objective: Public Transport Regulation

- 1.11 On a general note, the Authority finds it anomalous that the first two objectives (Better Public Transport and Public Transport Regulation) should be regarded as distinct. No mention is made of how public transport regulation can contribute to better public transport. Improving public transport is not simply about better management of publicly-owned transport: it is also about the contribution that other operators can make and the benefits of targeting subsidies to where they are needed.

More positive approach would be welcome

- 1.12 Overall, the strategies under this objective in the 2008 – 2011 Strategy Statement mostly reflected merely the fulfilment by the Department of its legal obligations – for instance, to comply with EU and national legislation. The exception is the objective of developing proposals for reforming bus licensing legislation and examining the need for a National Transport Regulator, which have been achieved and which the Authority welcomes. However, in the next Strategy Statement it would be good to see a more positive approach which recognises the benefits of effective regulation, sets higher objectives than merely not breaking the law, and integrates the regulation of private-sector provision into the higher objective of improving public transport in Ireland.

Taxi Sector

- 1.13 The Authority also notes that the removal of quantitative barriers to entry in the taxi industry has resulted in an increase in the number of journeys taken and a fall in waiting times, and would encourage the Department to continue to recognise the benefits of this policy. While we recognise the need for qualitative restrictions in order to protect consumers, it is important that these should be proportionate to the benefits they bring and not unduly restrictive, as otherwise quantitative restrictions might re-emerge in a different form.

Rail Sector

- 1.14 The first strategy under this objective reads: "Ensure that we are in full compliance with our EU obligations in relation to access to the rail market for passenger and freight services, including infrastructure charging, interoperability and passenger rights." The Authority notes that on 24 June 2010 the European Commission decided to refer Ireland (among a number of other Member States) to the EU's Court of Justice for failing to correctly implement the "First Railway Package" of Directives opening up the EU's rail market to competition. While the Commission did not give details in relation to Ireland, the most frequent alleged infringements related to not sufficiently ensuring the independence of the rail infrastructure manager, inadequate implementation of the provisions concerning rail access charging and/or a failure to set up an independent regulatory body.
- 1.15 While the Minister for Transport has introduced Regulations (the European Communities (Railway Infrastructure) Regulations 2010), which updated the previous Regulations, it appears that this has not been enough to satisfy the Commission that the First Railway Package is being implemented in full.
- 1.16 The Authority notes that there are barriers to entry to the rail passenger and freight markets in Ireland, due to its isolated geographical position and non-standard gauge. However, these are not necessarily insuperable, particularly if measures are taken to alleviate technical problems – for instance, by ensuring that redundant rolling stock is sold on the open market. The Authority would encourage the Department to ensure full compliance, not only with the letter, but also with the spirit, of the EU Directives.
- 1.17 The Authority would also encourage Irish Rail to publish a Network Statement and put a strategy in place to allow other operators provide rail services if Irish Rail decide to close a particular route.

2. ANNEX I: AUTHORITY RECOMMENDATIONS ON PREVIOUS STRATEGY STATEMENT (2008-2010)

Recommendation	Implementation status
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.	Not done – wording changed from previous version but does not include reference to competition or competitiveness.
2 The wording of the regulation principle should be changed to a phrase such as " <i>We will promote competition.....</i> ", allowing for the role which regulation, economic or otherwise, can play.	The High Level Goal of "Governance and Reform" is: "To enhance the efficiency and effectiveness of transport services through competition, economic regulation, institutional reform and corporate governance of State agencies." However, the extent to which this has been carried through in practice is debatable.
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.	Done – Public Transport Regulation Act 2009
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.	New legislation has been enacted and guidelines for Public Bus Passenger Services are under consultation
5 The Department should expedite the creation of a National Transport Regulator as a key Public Transport Objective.	NTA has been established
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	Not done

means of franchising in Year 1.	
7 The Department should ensure the implementation by the Dublin Transport Authority of integrated ticketing in the lifetime of the next Statement of Strategy.	Not done
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.	Not done

