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Workshop 2 report: Practical considerations in implementing different institutional regimes

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ABSTRACT

This workshop focussed on practical aspects of change across institutional regimes in the public transport sector, covering the experience from 11 countries in the rail, bus and coach sectors. Two key themes guided the workshop discussion: the introduction of competition (processes of implementation and shifting competition regimes) and the functioning of mature competitive tendering regimes (contract design, bid evaluation and results). The workshop outcomes are presented along the line of three main issues. The first one is regime shifts, looking at triggers that make regimes evolve, discussing whether change necessarily takes place for the better and whether a regulatory cycle can be observed. The second one is getting a closer look at what exactly is being subjected to competition, discussing contractual scope, unbundling options, the function of the authority, system management and risk allocation. The third one investigates the actual functioning of competitive tendering regimes, discussing the issue of contract standardisation, bidding procedures and the design of evaluation and awarding mechanisms. The main recommendation of the workshop is to increase the strength of the PTA and to choose for gross-cost contracts.

1. Introduction/overview of the workshop

This workshop takes the main themes identified in some previous Thredbo workshops, with a focus on distilling the practical aspects of implementing change across different types of regimes, ranging from contracting (such as by direct award or competitive tendering) to market-initiative-based (such as open access competition).

The conference invitation suggested that one area for discussion could be the practical implication of institutional maturity on contracting issues, for example how contract design and monitoring needs to be adjusted to accommodate different levels of institutional maturity across markets. Closer to the conference it became clear that there would be a focus on the changes, choices and processes of implementing different types of regimes and their functioning. Initial reforms, as well as issues related to more mature markets, such as contract design in tenders, as well as later shifts in regimes, were to be discussed and addressed. A key objective was to come up with well-founded and practically-oriented policy recommendations while contributing to enhancing our understanding of the rationales that lead to implementation and shifts in institutional regimes.

From the transport authority and transport practitioner perspectives, the call-for papers also highlighted an important but usually less reported aspect to be explored: the use of tools like contract and competition to achieve a wider set of policy objectives. It was argued that contracting cannot be viewed only in technical/efficiency terms and that competition cannot be viewed only as an administrative/regulatory mechanism in mature markets. Hence, the discussion should also consider institutional settings, levels of capital constraints across economies in varying stages of development, and how these differences could potentially prevent the theoretical benefits of various models from being realised.

The workshop also intended to cover emerging regulatory issues precipitated by globalisation and the rise of trans-national transportation companies. Related topics to be explored included benefits of and challenges in encouraging or regulating foreign transit operators to participate in the bid process and managing a potential influx of foreign operators.

The workshop welcomed papers examining these issues in mature and developing economies as well as papers and case studies dealing with trans-national issues. The precondition was a focus on practical

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implementation with a view towards maximising benefits from various regimes that have been adopted across different jurisdictions.

The 16 papers accepted to be included in this workshop covered experience from 11 countries, including rail, bus and coaches. They were organised along two key themes: 1) introducing competition, processes of implementation and shifting competition regimes, and 2) mature competitive tendering regimes - contract design, bid evaluation and results. This was also reflected in the division of the workshop itself. In addition to the presentations of the papers, the workshop provided time for discussion of each paper as well as parallel group discussions to come up with recommendations and conclusions.

2. Workshop papers and presentations

This section includes a short summary of all the presented papers, sorted by key theme.

2.1. Key theme: introducing competition, processes of implementation, and shifting competition regimes

2.1.1. Initial or early steps of reforms in some cities in the US, the Philippines and Cyprus

In terms of public transport contracting-out, most of the US can be considered to be a fairly immature market (Lotshaw & Bragdon, 2019). Sometimes the policy is mistakenly only seen as a way to cut costs, while improvement for riders should be the main focus. Case studies from Europe and some US cities (further described in the report "A Bid for Better Transit" (TransitCenter & Eno Center for Transportation, 2017) provide some important lessons for transit agencies: 1) public interest cannot be "contracted out", 2) clear contracts align contractors' profit motive with agency goals, and 3) symbiotic agency-contractor relationships can improve operations and foster innovation. The city of New Orleans recently performed a thorough request for proposal to get a new operator for its transit network, but eventually the award was made to the incumbent despite the agency's prior dissatisfaction. However, a positive result of the process was that the agency strengthened the oversight. Another example comes from Austin, Texas, where contracting has been introduced step-by-step and perfected through practice, with a pronounced political influence. The evolution to a private contractor followed from labour unions overplaying their hand and state legislators stepping in. By means of using long lead-times and careful considerations of labour pension plans in the transition process, Austin was able to achieve a positive outcome, including a developed network of bus lines with more frequent departures.

The Philippines is embarking on a transformative program to modernise public transport in the country, in particular regarding the fleet of vehicles used. The traditional converted jeeps – jeepneys – have dominated public transport services for many decades (Kaenzig and Mettke, 2019). While cheap, they are uncomfortable, unsafe and highly polluting. The sector is very fragmented and although an authorisation is required to serve the public with jeepneys, the large number of single-vehicle operators, operating without subsidisation by means of on-the-street competition, makes it more informal than regulated. In 2017 the Department of Transport launched a Public Utility Vehicle Modernisation Program which will prohibit vehicles that are more than 15 years old by the end of 2020 and introduce new technical standard requirements. In order to facilitate the transition to new vehicles, an assisting financing mechanism has been adopted by the Government. The authorisation model is also seeing a change from a "one-vehicle one-licence" to a "one-route one-licence" arrangement, which could force most of the existing operators to consolidate. Early experience shows some positive signs. New vehicles, mostly a variety of mini-buses – even electric, are coming into service and there is some consolidation of ownership and formation of co-operatives. There is clear potential for operators to achieve commercial gains through modernisation. However, route rationalisation has yet to happen and the financing model probably has to be amended.

The public transport bus routes of Cyprus are now being procured by means of competitive tendering for the first time, following a failure of a previous ambitious reform in 2009 to improve public transport (Papaioannou, Georgiadis, Nikolaidou, & Politis, 2019). Car ownership is among the highest in Europe and public transport lost about 50% of passengers during the 1990s, bringing the market share down to below 2%. The 2009 reform included a reduction of the number of operators from 209 to 6 (by directly awarded 10-year contracts), a replacement of the fleet with modern vehicles and a doubling of the frequency in urban areas. Initial enthusiasm and increased ridership were followed by problems when the procuring entity and the operators got into disputes about compensation. Bureaucratic procedures also made service improvements slow and there was a general lack of incentives to operators in the contracts. The key objective to reach 10% market share has not been met and investment in infrastructure and new fleets has been limited. In 2016, the authority therefore decided to initiate a competitive tendering procedure for the award of a new set of contracts once the old ones had expired. Competitive tendering was considered the only option available in Cyprus to be compliant with the new EU Regulation 1370/2007. Considerable efforts have since been made to prepare for this, including the hiring of experts, engaging all parties and trying to specifically attract foreign operators. Six 10-year net-cost concessions are expected, with extensive selection criteria, trying to meet several conflicting objectives at once (reduce public spending, increase service quality, achieve investments etc). It remains to be seen if this will lead to success, but there are reasons to be sceptical about the interest from international operators due to the many contracting areas for such a small country, the relatively limited operator freedom of service design and fare policy, coupled with the investment requirements. It seems that the authorities have yet to acquire the necessary experience to manage and supervise a foreign and potentially more experienced operator.

2.1.2. Processes of implementing different types of regimes in cases from Germany and cities of Colombia

The German railway market was restructured in 1994, with organisational unbundling of infrastructure from railway operations, although all units remain controlled by Deutsche Bahn's holding company. Like several other countries, it has been difficult to get effective competition to materialise in long-distance passenger services (Knorr and Eisenkopf, 2019). Even 25 years after the introduction of open access in this part of the market, the combined market share of all new competitors for long-distance services in Germany is stuck below 1 per cent. In contrast, new entrants have reached 26 per cent of the short-distance (regional) services under a model of competition for the market, and 47 percent in the rail cargo segment under open access. Several entry barriers remain, and newcomers complain about systematic discrimination in terms of e.g., track access, track access charges and ticket distribution system. In this presentation and paper, it is argued that effective competition requires a critical mass of long-distance seat capacity, which is difficult to achieve due to current entry barriers related to rolling stock. At the same time, Deutsche Bahn AG's capacity utilisation for long-distance trains is only 55.1 per cent. To address these problems, an original and radical reform alternative is proposed: regulated access to the incumbent's seat inventory with two variants: 1) guaranteed access to a certain percentage of seats on specific trains at non-discriminatory conditions, or 2) exclusive access to a certain number of carriages.

A common organisational model of cities with advanced public bus networks is to have the public sector responsible for infrastructure development, networks and service planning and monitoring operations, while efficiency-oriented bus companies operate services according to specifications and standards well defined in contracts (Canon Rubiano and Cáceres, 2019). Tendering for bus operations varies according to selection and remuneration mechanisms. When looking at bus provision and operation, there are two broad categories: bundled provision and operations, and un-bundled - with separate contracts for

operators and fleet providers. Using examples from the cities Medellin, Cartagena and Bogota in Colombia (and comparisons with some other cities in the World), several variants can be described in terms of opportunities and challenges, in particular related to modernisation initiatives. The paper suggests that there are some clear benefits of unbundling the provision of buses but warns that understanding local market circumstances will be critical in choosing a successful model. Incentives and disincentives to tackle the risks of having a separate fleet provider is directly related to the maturity level of the market.

2.1.3. Examples of shifts in competition regimes in the city of Moscow, New Zealand and a couple of European countries

Moscow's public transport provision has undergone several changes since the 1990s, when the single state-owned agency started to face some competition from private operators filling the gaps in services, mostly by means of minibuses (Ryzhkov and Sarzhan, 2019). In 1998 the principle of market initiative, although to some extent regulated, was officially recognised. However, in 2016 a major reform replaced all market-initiated minibus routes by those directly designed by Moscow authorities, coupled with a model of competitively awarded contracts. The stated aim behind this reform was to integrate private operators in the city ticketing system, to renew the fleet, to rationalise the network, getting rid of many overlapping routes and increasing capacity overall. Since then the private branch of the Moscow bus system has been working under a central planning regime with no room for market initiative. The number of private operators has been reduced from 70 to 8. The state-owned company Mosgortrans remains an important provider of services and has mostly benefitted from the changes in the network. Shortly after the reform it became clear that capacity had become insufficient in several areas, and Moscow authorities have therefore been forced to amend the network, including renegotiating contracts. Detailed hexagon mosaic mapping of the changes in the network reveals a more complex picture of changes and related aims of the 2016 reform, deviating from the stated rationale. The initial private operator network used to be more evenly distributed and did not only serve the most lucrative routes, unlike what has been typically argued by authorities. The introduction of central planning on such a big scale and in such short time created new problems, as the system shifted from many overlapping routes to a system that could not fully cope with demand.

Based upon the legal framework of a new national model for public transport operations in New Zealand, the Greater Wellington region was recently able to go through a tendering process for a majority of its public transport services (Cooper, 2019). This was the first opportunity of this kind since the deregulation in the 1980s. The legislation requires some contracts to be directly awarded to the incumbent operators, while others may be competitively tendered. The tendering process included much effort to ensure pre-engagement of industry and potential bidders in order to improve contract design and generate interest. Also, much thought was put into market contestability, affecting for example, the selection of units to be tendered, allowing unlimited bundling of units by bidders, and requirements to renew the fleet. A model of price and quality evaluation was used to pick the winning bids. The outcome was a highly competitive tender process where two minor companies beat the incumbents. However, the implementation became a challenge for both the new operators and the incumbents as the 12-month transition period was probably too short, also considering the many other changes (new bus network etc) implemented simultaneously. The directly awarded routes resulted in a substantial premium over tendered prices and would have benefitted from a recourse to go back to market.

A couple of cities or areas in European countries such as France, Sweden and Denmark have recently moved away from organisational models built on competitive tendering of urban public transport services. Instead they have decided to move back to public ownership and favour in-house production of public transport (van de Velde, Thoresson, Wretstrand, & Paulsson, 2019). France enacted a law in 2010 that facilitated the creation of public sector companies, which is relevant to several utilities, not only transport. This seems to have triggered the creation of a number of public sector transport operators, aiming at having more flexible and local control on services provided and avoiding risks such as too expensive bids and a lack of competitors. In the city of Örebro (Sweden), a perceived earlier malfunctioning of the market (fewer bids and large actors), legal disputes and poor employment conditions lead to a political decision to provide public bus transport in-house. The opportunity to buy into an existing company in a neighbouring region was also a crucial factor. In Bornholm (Denmark), a contracted operator went bankrupt, forcing the procuring authority to step in, but an independent commission later showed in-house operations were more cost-efficient and reliable, leading to a political consensus about in-house operations of public transport. Further research will go deeper into the analysis of the causes of the shift, compare the institutional conditions for in-sourcing, how it has been done, and the resulting effects.

2.2. Key theme: mature competitive tendering regimes – contract design, bid evaluation and results

2.2.1. Contract and tendering design in two separate studies on Sweden

Allowing for more flexibility in tendered bus service contracts has been highlighted as a possible way to come to terms with recent cost increases in Sweden. An analysis of the procurements and resulting contracts from a 10-year period (including workshops with stakeholders), looking at main types of contract, timetabling, bus requirements etc.), shows that flexibility is generally low (Camén, Tsaxiri, Aldenius, & Lidestam, 2019). PTAs are still mostly in control of the parameters affecting operators. A possible exception is the cooperation taking place between actors when it comes to timetabling, although the PTA usually has the final say. Operators keep asking for more flexibility. There seems to be new ways to design tender documents and a movement towards more collaboration between actors, but these aspects have yet to have an impact in actual tender documents.

Work to standardise public transport contract design and requirements has been going on for a long time in Sweden, through a collaborative organisation involving the various actors (Paulsson, Wretstrand, Westerdahl, & McGlinn, 2019). A number of standards have been produced, but the degree to which they are followed and adopted varies, not least geographically. Some of the major PTAs tend to go their own way, although the operators try to push for the use of harmonised contracts instead of special requirements. Contract standardisation is a matter of contention and continuous negotiations as the standardised contracts effectively standardise the allocation of economic risks between the contracting parties.

2.2.2. Issues related to the evaluation of bids in the experience of the Helsinki region, Australia and Sweden

Bus services in the Helsinki region have been subject to competitive tendering since 1994. The current procuring authority, HSL, was established in 2010. The gross cost contracts typically used have shown limitations, for example when it comes to incentivise the use of modern and more environmentally friendly vehicles over extended contract periods, and there have also been concerns about market concentration at the operator level (Anttila, 2019). The market leader, Nobina Finland, currently controls about 36 percent of the buses in the region. The paper presents two measures taken. Firstly, in order to tackle emissions from buses, HSL introduced an additional special tender for a so-called environmental bonus in 2012, taking place once a year. Bus operators may then earn extra payments if vehicles with better emission standards are put into operation. The system has proven difficult to work in practice, and it took persistence and four failed tendering rounds before a successful model had been established. For example, bus operators are now incentivised to use bio-fuels with lower CO2 emissions. Secondly, the risk of market concentration has been handled by means of a

so-called market share cutter, introduced in 2015. It places a cap on the market share of each bus operator and allows the second-best bidder to win under such circumstances. The cutter has been used in three tenders, varying between 52 percent and 55 percent, with mixed results, but it has been successful in preventing any operator to rise above 40 percent in market share.

Since the introduction of competitive tendering of bus services in Australia, many operators face the situation that their existence depends on successfully winning a contract with a single procuring authority (King and Overington, 2019). This highlights the need to have trust in the evaluation process and that there are no errors, bias or conflicts leading to the wrong outcome. One way to minimise the risks of wrongdoing is to introduce a competitive evaluation process. This could be achieved by means of having two separate teams performing the same evaluation of all the bids, with Chinese walls between them. Any difference in overall ranking would then have to be explored. Although this would lead to additional costs for the evaluation process, there could potentially be much higher costs of getting the evaluation wrong. The model would also work to build confidence and a better relationship between the contractors and the procuring authority.

Evaluating bids on both price and quality, rather than only price with a lowest level of acceptable quality, is typically seen as a better representation of the procurers' and the publics' preferences (Ridderstedt, Pyddoke, & Nyström, 2019). Ranking bids based on both price and quality will require a total score from a scoring rule formulated by the procurer. The tendering of public bus services in Sweden provides an interesting case for studying the practical use of scoring rules for the award of contracts, and a simple analysis of their performance. Ten out of Sweden's 21 counties have used scoring rules (to a varying degree) in their tenders. There is no obvious pattern in terms of geographical location, population or degree of urbanisation, explaining the use of scoring rules. Even where scoring rules are exclusively or dominantly used, the rate at which the lowest bidder won the contract is still high, and the difference between the winning and the lowest bid is between zero and two percent. Most counties cover a wide range of quality parameters with their criteria, with an emphasis on organisational and managerial quality, in addition to more technical aspects related to vehicles and traffic. A limited study of the effects of scoring rules on performance in terms of punctuality shows no measurable effects. It is concluded that the current use of scoring rules in Sweden have no clear benefits in comparison to awarding the lowest bidder fulfilling a pre-defined minimum level of quality. Scoring rules may add costs without additional value and lead to adverse selection of bidders (Hensher et al., 2000). A possible way forward could be to impose national guidelines of implementation and make sure that only verifiable quality parameters are evaluated.

2.2.3. Insights on results linked to the use of incentives in contracts and to the role of informal institutions

The Swedish public transport market is characterised by the use of competitive tendering of gross cost contracts, amended with significant ridership and quality incentives (Thoresson, Danielson, & Wretstrand, 2019). However, it is unclear whether the contract designs in fact support the overarching policy goals (divided into market, customer, and technical goals), as expressed in strategy documents such as the regional transport provision plans. A study of Sweden's three largest metropolitan regions reveals that technical goals are very well met in the contracts, customer goals are relatively well met, while market goals are often not specified (or only implicitly through ridership incentives). Organisational differences between the regions may explain some differences in the linkages between strategic goals and contract design, where a more integrated structure (Stockholm), with more political influence also on the agreements with operators, leads to a better match. Some of the strategic elements, such as infrastructure, may be beyond the control of PTAs. In some cases, the goals in the strategic document are considered to be too vague and non-specific to be worked on properly. A possible management solution could be to first translate the general goals into specific measures in a business development plan. Incentives are perceived as important by PTAs but must be controlled by hard and soft management.

The use of passenger incentive contracts became a wide-spread feature in Swedish public transport tenders as part of an ambitious program launched by collaborating stakeholders in 2008 – the so-called Doubling Project (Alexandersson and Hultén, 2019). It was aimed at doubling public transport journeys from 2006 to 2020 and market share to 2030. Although significant improvements have been made (+37 percent growth in journeys between 2006 and 2018), the goals still seem difficult to achieve. Moreover, costs have exploded, increasing 60 percent in real terms. The role of passenger incentive contracts behind this development is studied by means of a statistical analysis. Similar to previous studies, there is no evidence that these contracts affect passenger patronage. Also, they cannot explain the increase in costs. In both cases, the development of supply has a more profound impact. The widespread adoption of passenger incentive contracts coincides with a shift to improved load factor in buses in recent years, which may indicate that control of tickets function better in passenger incentive contracts, or that the use of new types of tickets and ticketing machines make it easier to validate tickets regardless of contract type. The result from previous research that special requirements above purely functional features of buses increase the costs of running bus services, was disproven in the analysis. There is a tendency to have more conflicts between parties on contract interpretation, and challenging of tenders in court, although more research is needed on this issue.

A lot of research on the influence of governing choices has resulted in important insights about what factors help and hinder public transport competitiveness in relation to other modes. However, it generally has a narrow focus, mainly emphasising the importance of the establishment or change of formal rules and structures (Hirschhorn, van de Velde, Veeneman, & ten Heuvelhof, 2019). Decision-makers can also benefit from understanding other relevant aspects of governance and policy-making processes, such as the role of political steering, legitimacy or informal institutions – adding *how* policymaking and implementation unfold to *what* tools can be used. This also includes the human element – individuals' ability to intentionally pursue their interests and to influence the social world (individuals' agency). Using the metropolitan areas of Amsterdam and Oslo as case studies, the analysis identifies informal institutions (shared understandings) and episodes of agency that are crucial drivers of public transport performance. Furthermore, the analysis shows that formal frameworks, informal institutions, and key actors establish complementary, substitutive, and accommodating relationships in handling issues including public transport supply, integration between land use and transport, policy implementation capacity by PTAs, and subsidy constraints.

3. Workshop outcomes

The workshop discussions were organised in three groups, each concentrating on one topic. Their main conclusions are presented below.

3.1. Competition and shifting regimes

The first group discussed regime shifts, looking at triggers that make regimes evolve, discussing whether change necessarily takes place for the better and whether a regulatory cycle can be observed.

The institutional regime in the sense of proper contracting and tendering (or not) is often seen as key to good performance, but it is important not to forget that further elements constitute an institutional regime. An important aspect is the political context and leadership, another is the setup of the PTA, its role and function and the business model employed. The question then is: "What makes an institutional regime more effective, and what triggers positive action and good performance?"

What makes regimes evolve? Political leadership is responsive to local mobility transport challenges (congestion, environmental concerns, aspirations for a better city etc.) and political will for change comes from confidence in specific measures proposed. Change, however, often requires a 'trigger'. The workshop participants found, based on their experience and observations, that various events may kick-start changes in institutional regimes. The arrival of a new administration, in particular when it is developing new urban or regional aspirations, is a typical example. There is a link here with wider city aspirations (e.g., initiatives such as 'smart cities' programmes) and a desire to emulate what's happening in other cities. In addition, experience tends to show that there is in this respect often a complex interplay with the presence of capable and influential individuals both on the political and on the administrative side to push forward a clear agenda and enact change. Another source of reform can be the presence of an economic and/or broad societal/political crisis. This could be located on the supply side, such as budget constraints resulting from an external shock of some sort. It could also be located on the demand side, such a pressing societal need to solve growing traffic congestion and pollution issues. Finally, reforms can also result from external requirements that are not necessarily linked to any local concern, crisis or policy goals. A good example of this are the reforms that result from changes in national or supranational laws, such as the coming into force (and expiry of the transitional period) of the European contracting and tendering rules in local public transport.

Is change always 'for the better' or not? The workshop participants did not reach a clear agreement on this point. They found – perhaps not surprisingly – that it is generally easier to identify issues that would need addressing, while finding the 'right' strategy to address the issues identified is much more challenging, and indeed so is reaching a consensus. An obvious related contentious issue is that of the definition of what is 'better'. Highly visible problems may actually be symptoms of deeper issues that require identifying root causes and developing solution strategies linked to these root causes instead. It was suggested that aligning broad goals between stakeholders, as a first level of agreement and reference point for later discussion of plans and options, is a necessary starting point towards an evolution for the 'better'. This requires developing a unified urban transport strategy with a key role for the PTA and/or the city to set direction and coordination and where the PTA collaborates with the city towards developing such urban transport strategy. The workshop group agreed that the presence of an effective management function on the side of the PTA (as network/system manager) should be seen as one of the key elements to realise this. This in turn points to the necessity of ensuring that the PTA itself becomes and remains properly incentivised and accountable, perhaps under a set of KPIs, and that contracts and assignments place risks where they can best be managed. Yet, reaching such a situation remains a challenge for which no one-size-fits-all recipe can be given and for which various factors play a role: individuals, their motivation, past experiences, the administrative and political culture, etc. In this sense the workshop discussion also underscored the importance the skill set of staff in public transport systems and of their problem-solving know-how in tackling policy challenges, developing, and enacting institutional change.

Can a regulatory cycle be observed? This question was formulated due to the perception that choices for institutional arrangements are not stable everywhere and that at least some movement to increased public control, via central planning and gross-cost contracts, and even to public ownership and production can be observed.[1] The group's discussion led to the hypothesis that it is likely that inadequate risk allocation in the past may have triggered such revolving re-allocations of (unmanageable) risks. The group concluded that increasing the PTA's strength and its management capacity could contribute to interrupt such a regulatory cycle. The danger of this conclusion, however, is the suboptimal/optimal fallacy: the common tendency to compare a suboptimal implementation of one institutional arrangement with an optimal implementation of another, decoupled from context. Saying that the PTA should be stronger does not yet indicate why it is not yet the case and how to reach a situation where it will be the case.

3.2. Competition for what?

The second group had a closer look at what exactly is being subjected to competition, discussing contractual scope, unbundling options, the function of the authority, system management and risk allocation.

The main topic of discussion here was that of the contractual scope and the function of the authority versus that of the operator. Put differently: should net-cost contracts with contractually bound operator freedom be pursued or should, instead, gross-cost contracts with no operator freedom be pursued? This issue has been around since the beginnings of the Thredbo conference series, constituting one of its main themes, comparing the 'London-style' competitive arrangements with various attempts developed elsewhere to incentivise operators to various extents to generate more ridership, transferring the revenue risk of operations to them, and giving them the faculty to re-design services during the contract. On this point, the group expressed a clear and strong view that gross-cost contracts are highly preferable to net-cost contracts; breaking with earlier recommendations in the Thredbo conference series that were more open to the opportunities offered by net-cost contracts. The experience represented by the group led it to observe that passenger growth through net-cost contracts has appeared to be illusory. Financial risks should be in relation to the operators' capability to influence the factors that create the risk. Gross-cost contracts, from that point of view, realise a better risk allocation compared to all other alternatives that have been tested. Also, the experience represented in the group stressed that such contracts have by now also proven to be much simpler to administer. These contracts, however, require the PTA to be able to carry out the planning function effectively, and to remain incentivised to do so, and an ability to deal with unforeseen risk.

To put things into perspective, one could wonder whether the presence of practitioners from countries where net-cost contracts are the norm (the Netherlands and France) would have led to a different debate. Indeed, most members of the workshop represented places where gross-cost contracting is pretty much dominant or even the norm, even though several forms of incentivisation have been tried (and reported in some of the papers). Consequently, and to present things in a different way, one might conjecture that both net-cost contracting (favoured in the Netherlands so far, and in France) and gross-cost contracting (favoured in many other places) currently co-exist and that both forms appear satisfactory to those using them. However, experience shows that endeavours have appeared in various places to transition from gross-cost to net-cost contracting, mainly through the addition of ridership or other commercial incentives (even though, from the point of view of the participants to the workshop, this mainly seemed disappointing or problematic). Conversely, looking at net-cost contracting, cases of transitioning to gross-cost contracting also exist, and these do not appear to be problematic. What could this mean? Could it be that the 'path' from net-cost to gross-cost is a comfortable downhill walk, a path that is likely to be trod as soon as problems appear in the functioning of a regime based on net-cost contracts? And could it be that the path from gross-cost contracting to net-cost contracting should be characterised as an arduous uphill hike, which is unlikely to be undertaken by those used to the easier gross-cost contracts? A further analysis of developments over the coming years is needed to elucidate this question.

As to the (un)bundling and the resulting interface and coordination function of the authority (e.g., in vehicle procurement and management, or ticket distribution), the group concluded that there is no one-size-fits-all. The context will have to decide and the most important was seen to

[1] The workshop agreed in that respect that public sector production could in principle, under the right circumstances, offer the same competency as common in the private sector.

be the need to have a process that enables finding the right answers for the specific situation. This again points to the need for having a well-equipped PTA, with skills, expertise and knowledge.

3.3. Functioning of competitive tendering

The third group investigated the actual functioning of competitive tendering regimes, discussing the issue of contract standardisation, bidding procedures and the design of evaluation and awarding mechanisms.

Should contracts be standardised or not? A general observation was that there is no 'model' contract even though some standardisation can be helpful such as to enhance the predictability and confidence in the tendering process. Ultimately, the discussion within the workshop led to observing that contract standardisation could perhaps also be seen as an obsessive but illusory target. Contract standardisation initiatives can indeed be observed in several countries, but they reach mixed results with contractual diversity continuing to exist. So, the process that has standardisation as its main intended purpose could perhaps be seen as a process of sectoral 'socialisation', in other words: as a way of exchanging ideas and being 'connected', while adapting to new realities.

How to conduct bid evaluation and contractual award? The discussion group stressed, on the basis of the varied experience present within the group, that there are many risks to get the awarding wrong and that the main thing is to be clear on what you want to achieve, both in the contract and in the rest of the tendering documents. To avoid things going wrong, it was stressed that it is important to ensure that bidders understand the contract evaluation process clearly at the time of designing the bid. Furthermore, the group stressed the importance of proper checks and balances during the evaluation procedure, having the right people, the right training of these people and the right time to conduct the bid evaluation and the whole of the awarding procedure.[2] In particular, it was recommended to pay much attention to having a properly devised evaluation procedure, such as having double evaluation teams, avoiding too early consensus in the evaluation process and preventing cross-pollination of bias, errors, and other issues between evaluators. It was also recommended to avoid having too many quality criteria, and to limit the complexity of the awarding model. Again, strong doubts were also expressed at this level at the faculty to conduct a proper tactical level tendering under net-cost contracts, favouring again a simpler gross-cost contracting approach.

4. Workshop recommendations

4.1. Policy recommendations

The main recommendation of the workshop in relation to contracting and competitive tendering is to increase the strength of the PTA and to choose gross-cost contracts, as the workshop perceived these realise a better risk allocation compared to all other alternatives that have been tested.

As to contracting and tendering itself, the workshop formulated the following recommendations: collaborate and consult with stakeholders before tendering; avoid excessive legalese and focus on realities; build in structured flexibility in the contracts to enable adaptation to changes and save costs; financial risk should be in relation to the operators' capability to influence the factors that create the risk; if competition appears insufficient, identify the things that cause the problems and see whether unbundling of parts of the production chain is necessary; do not use too many quality criteria in awarding models; reconsider the design of the evaluation process by creating competitive tension (using two evaluation teams) such as to mitigate the risk of mistakes and bias; ensure the realisation of a proper collaborative setting between the players during the contract; foster good client/supplier relationships through formal contacts such as joint management meetings.

Finally, a warning should also be formulated against going for dubious perfection, and it relates to the importance of people: "Better to inherit a bad governance structure with good people in charge than going for a perfect governance structure without having the right people for it to work".

4.2. Research recommendations

A crucial question is whether competitive tendering (CT) is still useful and fit for purpose. Have we now reached the next stage (be it a cycle or not) in the institutional story of the public transport sector where the usefulness of CT should be questioned? Is CT creating unnecessary complexities or are only legal and procedural requirements creating problems and not intrinsic requirements of CT as such? What are the key skills for proper tendering? Is it just a question of knowledge and expertise or is there more to it? Is CT really selecting what it thinks it is selecting? Have we not been paying too little attention to the other main components of CT, with the awarding procedures and models remaining substantially understudied and potentially ill-devised black boxes? Do performance incentives really work? How do they work and trickle down from authority, via contracts to managers and drivers?

As to the development of contracting practices, in particular either the hesitation between net-cost contracting and gross-cost contracting, or the hypothetical deterministic path towards gross-cost contracting: further analysis of developments over the coming years is needed to elucidate this question, including digging deeper into rationales, facts and influences that induce these stances and developments. Examining this element of public transport governance – i.e. contracting model – in isolation, however, appears to be insufficient to elucidate the reasons why public transport systems are more or less successful in achieving their planned goals.

Another important question that all too often remains untouched behind all procedural and contractual issues of CT is: what does it take to have a well-performing PTA, who in its turn will set up good contracting (tendered or not)? How to improve the governance of urban transport through the engagement of key stakeholders in a coordinating PTA? And in case a trend for more public sector involvement (re-)develops: what arrangements could be proposed, bearing in mind the experience of the past decades with public production and with competitive tendering, to ensure that public entities competently and efficiently provide transport services? And what does it take to make them competitive with the private sector in efficiency and performance?

On a more fundamental note: how do we get from well-intentioned recommendations ("this ought to happen", "that ought to be implemented") to generating real improvements? Are we not relying too much on a combination of illusory 'ifs'? Is there a recipe to attracting the right people to the right place? Are there windows of opportunity? Is there path-dependency? What is the impact from local heritage? To analyse many of these questions there is a need for an increased but foremost wider sourcing of theoretical concepts. This should be welcomed such as to encompass further concepts that could enrich and better structure the discussion on developments in institutional arrangements.

4.3. Thredbo 17 conference recommendations

The workshop stressed that the historical core of the Thredbo conference series remains important: governance, competition and ownership. More workshops should be devoted to these themes in the future conferences and to allow for fewer papers per workshop and more time for discussion. A suitable categorisation of themes should also be found such as to reduce the overlap with the other workshops.

[2] See Hensher et al. (2000) for an early study on related issues.

Declaration of competing interest

Although Gunnar Alexandersson co-wrote this report in his role as senior researcher at Stockholm School of Economics, he also has a part-time position at SJ AB (the state-owned railway undertaking in Sweden) as adviser on regulation and international affairs.

Although Didier van de Velde co-wrote this report in his role of researcher at Delft University of Technology, he is also director of the inno-V consultancy in Amsterdam (the Netherlands), where he specialises on advising authorities on issues related to the organisation of the public transport sector.

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