

JOINT OPINION ON EU-WIDE INTEGRATED TICKETING

SUMMARY

To steer business, innovation potential, and investment towards effective sustainable mobility outcomes without upsetting the current, successful organisation of public transport in Europe and undermining its important position as the backbone of our mobility future, any revision, or new development of European mobility regulation should be based on the below principles. This also applies to the current review of the ITS Directive and any ensuing regulation.

1. **Recognising the importance of local diversity and the principle of subsidiarity**

Acknowledge the instrumental role and strengthen the capacity of public authorities (local and regional authorities and transport authorities) to achieve European Green Deal and digital objectives, in view of their experience and their central role as integrator, their local knowledge, and their legitimacy as elected officials.

2. **Delivering public policy goals and a viable market through effective governance**

To establish a fair and viable market, and to ensure public authorities can implement their sustainable and equitable mobility policy objectives, oversight and powers to orchestrate this market need to remain with the legal and democratically elected institutions that will inherit the problems of a potentially malfunctioning mobility system: local and regional transport authorities.

3. **Leveraging the fare structure to achieve sustainability, equity and effective governance**

To advance digital integration, the EU should encourage and enable local and regional (transport) authorities to describe the conditions for resale of publicly produced and funded transport and infrastructure services and define non-discriminatory contracts for interested resellers.

4. **Guaranteeing fairness and rights and obligations for all**

To ensure fairness and a balanced market development, any regulation or policy initiative must be applicable to all types of mobility operators and not be limited to public undertakings. It must allow any type of integrated mobility service to emerge, not restricting MaaS provision to a commercial business case, and ensure all vendors are subject to the same rules and regulations (e.g., passenger rights, accessibility information).

5. **Forestalling market asymmetry through data reciprocity**

Ensure authorities and mobility operators are allowed to demand travel data as a condition of providing access to their ticketing system. This data should flow automatically as opposed to upon request.

6. Ensuring proportionality of necessary investment and expected benefit

Do not require transport authorities to make heavy/disproportionate investments in infrastructure within a tight time frame, especially as they are already struggling under the impact of Covid-19. Ensure financial support programmes are made available to help cover the infrastructure investments.

7. Respecting the collaborative nature of public transport

Maintain the prerogative of transport authorities to award exclusive rights and financial compensation to public transport operators in exchange for carrying out public service obligations. Any legislation on ticketing should not weaken this principle and should recognise the specific nature of the contract between passenger transport authorities (PTAs) and public transport operators (PTOs).

8. Recognising potential needs for consumer protection action

Consider the installation of a dispute-body/ombudsmen to oversee the likely volatile market of commercial digital mobility services and deal with malicious practices and customer protection issues.

INTRODUCTION

Europe's public transport (PT) provides sustainable mobility for millions of people. It is through the continuous and collaborative efforts of local and regional authorities, transport authorities and transport operators that Europe's public transport sector has been made to work for the benefit of all. Public transport stakeholders work towards a sustainable mobility system that allows access to all and supports policy goals in terms of energy, space and resource efficiency, equity, and active and healthy lifestyles.

The sector fully shares the European Green Deal objectives and is well placed to deliver them through decarbonisation, modal shift and modal integration. Public transport is an integral part of a city's Sustainable Urban Mobility Plan (SUMP) as the mobility backbone of our society. Major efforts to integrate all modes with public transport and deliver multi-operator transport services are paying off through increases in public transport ridership. Cross-operator fare, information, and service integration are already enjoyed by millions of public transport users today, who are multimodal by default.

The integration of all different transport and infrastructure services to offer flexible and multimodal travel options is at the heart of the Mobility as a Service (MaaS) concept. MaaS aspires to make travel easier and more convenient for users and to offer the best choice through the digital integration of transport. Europe's PT sector embraces the MaaS concept and is convinced that, with effective governance, integrated mobility services make public transport, and sustainable mobility at large, more attractive, and competitive.

In addition to the service product and customer tool, the MaaS concept represents a formidable lever for organising and managing mobility at regional and local level across all modes of transport. It can support local and transport authorities in their obligation to ensure that every traveller has access to the right information and quality services in all spatial settings and at all times. With this overarching vision and legal mandate for transport, public authorities have a crucial role to play in coordinating all those involved in this mobility ecosystem to offer the best possible service to citizens and visitors and preserve the public interest to achieve sustainability, accessibility, and equity policy goals.

A long history of public-private sector coordination in the public transport sector has revealed that without an effective governance framework, business interests do not naturally align with sustainable mobility goals, as promoted by cities, regions and the EU. However, market governance based on public-value principles offers an effective means to control undesirable but foreseeable market deficiencies and to inspire meaningful innovation that satisfies business interests and sustainable mobility objectives alike.

RECOMMENDATIONS

1. Recognising the importance of local diversity and the principle of subsidiarity

The most effective solutions are those that are adapted to the needs and specific characteristics of each country, region or city (with regard to geography, topology, sociology, history, institutions, local wealth and many other factors). These solutions require strong long-lasting political support and must be accepted by local citizens. This is the main reason why the regional public sector has responsibility for organising transport services. Furthermore, it is for this reason that there is no EU legal basis on urban mobility in the European treaties and that the EU adheres to the principle of subsidiarity on urban and metropolitan transport matters. Instead, the EU is supporting and cooperating with public authorities through other means, including promoting the adoption of SUMP's and the successful European harmonisation of mobility service procurement through principled approaches that allow the necessary local interpretation and adaptation (e.g., through the PSO Regulation 1370/2007).

Recommendation: Given their experience and their central role as integrator, their local knowledge, and their legitimacy as elected officials, any regulation or policy initiative should recognise the strong context specificity of mobility and the instrumental role of public authorities and should strengthen their capacity to achieve Europe's green and digital objectives.

2. Delivering public policy goals and a viable market through effective governance

Both the mobility services market and the market of digital platform services are prone to certain market deficiencies that need to be addressed. The large physical component of transport, compared to other service markets that face digitisation (e.g., banking, social media) means that undesired effects are felt very quickly at the local/regional level. Public authorities, therefore, need to maintain market oversight and be able to orchestrate mobility services and the digital services that are acting as distribution channels for these mobility services in their jurisdiction. Oversight and orchestration ensure good conduct, market balance and alignment with public policy objectives.

It is important to acknowledge that under current market conditions, sustainable travel behaviour is naturally at odds with the general business interest of commercial integrators. There is little revenue potential from sustainable and active modes, notably walking, cycling, public transport, which are free or low-margin, subsidised or compensated modes. However, there are potentially higher margins for integrators from primarily car-based modes, whether rental/shared cars, taxis or ride hailing, which may lead integrators to promote these services over sustainable and active modes.

The market for mobility services is characterised as a low-margin and networked market. The immense difficulty of creating market-based, commercially viable transport services that are meaningful for society and citizens is ultimately the reason why a publicly-controlled and compensated public transport market predominates today. Public sector-governed markets have been quite successful in reducing the market deficiencies of networked markets and creating meaningful mobility offers through publicly-steered service integration. This difficulty applies to new mobility services as well, where even seemingly established, large-scale and often multinational providers have not been able to prove their commercial viability. It also applies to the unclear business case of commercial integrated mobility services for which, even years after the introduction of enabling legislation in some Nordic countries, no convincing evidence has been produced.

In order to address market defects and to reduce the natural misalignment of business interest and sustainable mobility outcomes as well as to ensure a fair marketplace for all stakeholders while serving all categories of citizens, public authorities need to be able to govern the ecosystem. Any restriction of powers of public authorities in these domains would hamper their ability to influence the mobility outcomes in their jurisdiction. A key element of the governance framework relates to the fare structure and ticketing policy (types of tickets offered, pricing and special tariffs, accessibility etc.), which has important non-commercial objectives that contribute to the general good.

“Public authorities have and will have a greater responsibility to ensure that the potential offered by new technologies and mobility solutions will contribute to making the future transport system more efficient and sustainable. As already advocated, a strong governance of the multimodal transport system is required to ensure cooperation among all the actors involved.”

Excerpt from Future of Road Transport, Joint Research Centre, European Commission

Recommendation: To establish a viable market and ensure public authorities can implement the sustainable and equitable mobility policy objectives promoted by the EU and put into action at the local and regional level, oversight and powers to orchestrate this market need to remain with the legal and democratically elected institutions that will inherit the problems of a potentially malfunctioning mobility system: local and regional transport authorities.

Any future European policy on integrated mobility should clarify that the powers to set the conditions for access to public space and infrastructure for transport services remains with the respective local authorities. Furthermore, the power to set the conditions for the resale of public transport and other publicly produced or compensated transport services should remain with the respective transport authorities.

3. Leveraging the fare structure to achieve sustainability, equity and effective governance

The public transport fare structure itself has proven to be a successful policy tool to help deliver sustainable mobility goals as well as improve equity (e.g., discounted fares for vulnerable users). Affordable public transport is currently a high priority throughout Europe and will no doubt gain greater importance due to the financial hardship resulting from the current health crisis. This acknowledges that public transport is a vital local and regional utility - rather than a service market – that is worth being subsidised and compensated through local taxes. Most PTAs offer ticket prices that are not market based but instead heavily compensated by the taxpayers. Therefore, all resale arrangements should be carefully designed to ensure that public funding is fully allocated to benefit citizens and not channelled to subsidise the private resellers business. This is particularly important given the possibility for integrators to cherry-pick high/medium income customers to the detriment of others. The PTAs should not be obliged to offer mandatory resale commission or subsidised wholesale offerings to MaaS operators or other third parties.

Even if some aspects of ticket sales are regarded as a market activity, any regulation should be carefully considered. According to the Commission guidance on the abuse of dominance (2009/C 45/02), any undertaking, whether dominant or not, should have the right to choose its trading partners and to dispose freely of its property. The imposition of an obligation to supply on the dominant undertaking — even for a fair remuneration — may undermine the undertaking's incentives to invest and innovate and, thereby, possibly harm consumers. Furthermore, competitors may be tempted to free ride on investments made by the dominant undertaking instead of investing themselves. Neither of these consequences would, in the long run, be in the interest of users. Furthermore, a commercial service provider may leave the market in the absence of sufficient profit, which again is not in the interests of the user.

Recommendation: To advance digital integration, the EU should encourage and enable local and regional (transport) authorities to describe the conditions for resale of publicly-produced and funded transport and infrastructure services and define non-discriminatory contracts for interested resellers.

4. Guaranteeing fairness and rights and obligations for all

To ensure a fair system and an even distribution of rights and obligations, any integrated ticketing policy initiative taken by the public authority should apply to mobility operators from the public and the private sector alike. All relevant legal obligations related to travel information and ticketing should apply to all types of vendors, including digital platforms. The development of MaaS that will allow all users to access all mobility services (public-service or commercial) may be developed by third parties, but constraints must be respected, such as compliance with the pricing decided by PTAs or transport service providers.

In terms of rights and responsibilities, the platforms must be obliged to offer all relevant available services, not only the services with the highest revenue potential. Exclusivity between transport service providers and vendors, that may lead to parallelly-operating, walled-garden ecosystems

must be prevented to ensure best possible access to transport services for all and the most effective and sustainable use of public space and infrastructure over time.

The European Regulation on data governance promotes the opening up of service providers' data and marks a new era in the regulation of competition. Unlike other sectors (e.g. banking) public transport requires particular attention with regard to a level playing field for resellers and integration services as it is heavily compensated through public funds. Therefore, EU state aid rules must be respected, and any new regulation must be designed in a way that does not transfer state resources and confer an economic advantage to commercial MaaS operators. According to the Commission Notice on the notion of State aid (2016/C 262/01), operators who make use of the aided infrastructure to provide services to end-users receive an advantage if the use of the infrastructure provides them with an economic benefit that they would not have obtained under normal market conditions.

Recommendation: To ensure fairness and a balanced market development, any regulation or policy initiative must be applicable to all types of mobility operators and not be limited to public undertakings. All operators of transport services within a certain jurisdiction must be allowed, and encouraged, to join the area's digital mobility ecosystem. The authorities or transport operators that bear the production risk for the services they provide, must be able to condition access to the ticketing system on data sharing. It must allow any type of integrated mobility service to emerge, not restricting MaaS provision to a commercial business case, and ensure all vendors are subject to the same rules and regulations (e.g., passenger rights, accessibility information).

5. Forestalling market asymmetry through automated data reciprocity

Travel data captured through ticket sales, location data, etc., are critical for planning public transport services and for wider mobility planning. Should data on expected and actual trips become increasingly collected through MaaS platform-type services in the future, public transport authorities and contracted operators may lose knowledge of users' needs. Fare collection is a key entry point for creating the channels to customers and indeed the relationship with them. This data should be shared free-of-charge with public transport operators/authorities. It is unreasonable to expect a public transport operator/authority (and indeed any transport operator) to pay for insights that have been created with its data and its services. In the case of public transport, this is particularly problematic as the data and services made available to these platforms are largely paid for by local tax-payers. The absence of reciprocal data sharing could lead to data asymmetry (data-poor transport operators and authorities and data-rich platforms), which could lead to a situation where local travel demand data are held by large tech companies outside of Europe.

Recommendation: Any obligation to allow third parties to act as a ticket/trip reselling channel should mean that in return, the vendor, integrator or MaaS platform has an obligation to provide enriched data it creates and generates to the public authorities.

6. Ensuring proportionality of necessary investment and expected benefit

Adaptations to the physical and digital infrastructure of the ticketing system are required for the implementation of MaaS. This goes beyond the sharing of service data and the creation of a ticketing API. It may be necessary to modify the ticketing validation system to enable in-app payments such as NFC or SMS payments (where this does not exist already). To comply with Finnish legislation, the Helsinki public transport authority spent €1 million on adapting its systems to enable MaaS services, a substantial sum for an already digitally advanced country. This figure may be higher for those transport authorities less digitally advanced. Given the uncertainties about the uptake of MaaS and its contribution to sustainable mobility goals, infrastructure investments (adaptation and operations) in the digital and physical components of ticketing must be proportionate and shared amongst those who benefit.

Recommendation: Transport authorities should not be required to make heavy/disproportionate investments in infrastructure within a tight time frame, especially as they are already struggling under the impact of Covid-19. Financial support programmes must be provided to help cover the infrastructure investments and the principle of cost sharing amongst those who benefit should be adopted.

7. Respecting the collaborative nature of public transport

Regulation 1370/2007 sets out the framework for the existence of public service contracts in urban and rail transport across the EU. The Regulation exists to ensure the provision of services that the market would not otherwise necessarily provide. It is precisely because market forces would not allow for a service of the required quality, geographic coverage or cost, that public service contracts came into being. In practice this means that in exchange for operating public passenger transport services under specific constraints, called public service obligations, operators are awarded a financial compensation as well as an exclusive right on the public transport authority's territory.

Such an exclusive right is not a monopoly. As Regulation 1370/2007 sets out limited durations for contracts, it offers a chance for competitors to outflank the incumbent and win the market. Competition for the market ensures profitability for the winner as well as the provision of valuable services for the citizen. In that context, the financial compensation granted to the public transport operator cannot be called a subsidy. The PTA is not subsidising the operator as it would a charity – it is compensating an operator for carrying out what it deems to be an essential public service, which would not exist otherwise.

The provision of shared mobility services, such as car-sharing, ride sharing, taxis and ride-hailing, should be encouraged and facilitated where they complement and feed, rather than replace, high capacity public transport services, which remain the backbone of urban mobility. Given their experience in planning and organising mobility services, public transport operators could in particular contribute to the establishment and fast development of such services.

Recommendation: Transport authorities should continue to be able to award exclusive rights and financial compensation to public transport operators in exchange for carrying out public service obligations. Any legislation on ticketing should not weaken this principle and should recognise the specific nature of the contract between PTAs and PTOs.

8. Recognising potential needs for consumer protection action

Travellers expect more from travel service providers in terms of customer service. Customers expect support when things go wrong, information about their journeys, clarity on who to complain in case of a service breakdown. Although there is more to do, by their integrated nature public transport undertakings are well placed to meet these expectations.

Any integrated EU-wide ticketing system should have at its core the aim of providing easy-to-find and easy-to-use sustainable mobility options that are accessible to all and in accordance with EU legislation such as the new Accessibility Act. It should promote active mobility as well as free-of-charge mobility options, be fully inclusive, and not be primarily driven by economic considerations that might promote those mobility options yielding the highest profits to the detriment of the citizen and our planet. Any such system must keep in mind that freedom of movement is a right that all must be able to exercise regardless, among other things, of their social origin, mental and physical disability impediments, age, gender, country and language of origin, and the list goes on.

Moreover, the pre-existence of rights in other modes, such as railways needs to be thoroughly analysed. Urban mobility sits at the intersection of a number of modes, some of which are already covered by specific rights regulations. This multimodal setting should make the European institutions wary of over-regulating.

Recommendation: A more thorough analysis of the current legal requirements for platforms and operators needs to be carried out before imposing new ones. Consider the installation of a dispute-body/ombudsmen to oversee the market and deal with customer protection issues caused by malicious business practices - assess the relevance of the ADR (alternative dispute resolution) mechanisms in resolving customer issues in our market.

ABOUT THE THREE ASSOCIATIONS

EMTA (European Metropolitan Transport Authorities) is an association that unites the transport authorities from 31 larger European metropolitan areas to share knowledge and experience and to jointly address challenges in urban mobility and transport. By bringing together the executives and experts of its member organisations, the regional public bodies endowed with competences in public transport, infrastructure, and mobility, EMTA facilitates a discussion amongst peers to promote good practice and resolve policy challenges for more sustainable and equitable mobility.

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POLIS is the network of European cities and regions working together to deploy innovative solutions for a more sustainable mobility. POLIS fosters cooperation and partnerships across Europe and with the EU, to make transport research and innovation more accessible to cities and regions. In POLIS, decision makers are also provided with the necessary information and tools for making sustainable mobility policies a reality.

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UITP is the international association for public transport. In the European Union, UITP brings together more than 450 urban, suburban and regional public transport operators and authorities from all member states. It represents the perspective of short distance passenger transport services by all modes: bus, regional and suburban rail, metro, light rail and tram and waterborne. UITP also benefits from the exchange of experience between its more than 1,800 members from all around the world.

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