

## **THE EVOLUTION OF TACTICAL TENDERING IN THE NETHERLANDS<sup>1</sup>**

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### **1 INTRODUCTION**

The reform of public transport introduced in the Netherlands in 2001 is showing its first interesting results as about two third of the country (excluding the four largest agglomerations) has now been submitted to competitive tendering. Differently from many competitive regimes introduced in other parts of Europe, the Dutch regime aims at stimulating innovation in public transport. To this effect, a new passenger transport legislation allows the transport authorities to give operators the possibility to re-design the transport services (routes, timetables, fares, vehicles, etc.) during competitive tendering and/or during the contract period. As presented in earlier papers (van de Velde and Leijenaar, 2001; van de Velde and Pruijmboom, 2005), these legislator's aims are not necessarily easy to fulfil as various factual, informational or behavioural barriers can stand in the way of such arrangements.

Van de Velde and Pruijmboom (2005) present three of the first experiences with competitive tendering in the Netherlands based on facts dating back to 2002/2003. That paper focussed on the allocation of the tactical level (service design) between transport authority and transport operator<sup>2</sup>. Its originality consisted in attempting to identify the

<sup>1</sup> Preliminary version of the paper. Please do not quote without consulting the authors. The analysis and conclusions drawn in this paper are those of the authors and not necessarily those of the transport authorities presented in this paper.

<sup>2</sup> The concept of 'tactical level' relates to the distinction between strategic, tactical and operational level in planning and control of passenger transport services. See Van de Velde (1999) for a presentation of these concepts and further details.

reasons used by the various authorities to make specific choices in favour or against the allocation of tactical freedoms to the operators.

This paper reviews a few of the opposite evolutions that can be observed in these practices since this first analysis. Besides presenting the essential features of the cases studied, the paper concentrates on the reasons that have led transport authorities to these opposite choices in terms of allocation of service design power between operator and authority in a second tendering round. The paper draws conclusions on the various (institutional) aspects that may have led to these evolutions and sets a few questions for the future of the Dutch regime.

## **2 OVERVIEW OF MAIN DEVELOPMENTS**

The introduction of tendering procedures outside the four largest agglomerations started slightly slower than anticipated. By the end of 2003 one third instead of the planned 40% of the concessions were tendered. 75 concession areas were defined in August 2004, out of which 5 were urban rail concessions. 23 of the 70 non-urban rail concessions were submitted to competitive tendering by 2004. 22 more concessions have been submitted to competitive tendering since 2004, but some of the concessions have been split or merged during this period. As per September 2005 already two third has been tendered and many other areas procedures are in preparation. In the largest agglomerations no procedures have been started as far as it is related to concessions from the municipally owned companies.

The WP2000 was amended in 2005. This happened in two steps. The first step concerned all concessions with exception of the concessions granted to the municipally owned companies in the four largest agglomerations. The amendments were based on the result of an evaluation process on the developments in the first years of the new regime. This evaluation process had been planned from the start. Amendments in the first step were relatively small and the introduction of competition is planned more or less to continue in this market segment as originally planned.

The second step concerned the remaining concessions. The timetable for the introduction of competition in the concessions currently granted to municipal operators in the 4 large agglomerations has been extended. Authorities are now required to tender the bus concessions by 2009 or—in case a majority of the shares of the municipal operators are sold before 2007 to a third party—by 2012 and the rail concessions by 2017, under the condition that a benchmarking exercise in 2009 shows progress in performances. Amsterdam has been allowed to tender for an integral concession by 2012. Other changes include the possibility of a longer duration of a concession for rail services. Nevertheless the objective of tendering urban rail services at some stage in the future has been maintained, be it that the horizon has shifted to 2017.

Out of the 19 passenger transport authorities, 15 have currently used competitive tendering procedures to allocate passenger transport concessions; the other four are currently preparing their first tendering procedures.

### **3 CASES**

The allocation of tactical powers to the operators is in evolution and opposite tendencies can currently be observed. Initially, most Dutch passenger transport authorities introducing competitive tendering seemed to choose for organisational forms that allocated little or no service design freedom to the operators. In reinforcement of this, some authorities, who had initially given substantial service design freedom to their operators, have decided in a second tendering round to take this power away from the operators, confirming a trend that could be observed elsewhere in the country. This development leads a wider usage of variations on the so-called ‘Scandinavian model’ in the Dutch public transport landscape. Other authorities, on the contrary, have in their second tendering rounds decided to give operators more service design freedom than in their first contracting period.

We have selected for this paper four cases of competitive tendering that we believe to be illustrative of the divergent evolutions that can currently be observed in the Dutch public transport concessioning practice. In all four cases, the transport authorities have organised at least their second competitive tendering round, allowing us to describe and attempt to analyse their choices and behavioural evolution in terms of allocation of the tactical level to authority and operator. Where this was possible, we compare practices between first and second tendering for the same transport area. In those areas where the first competitively allocated concession has not yet expired, we compare the choices made by that transport authority between earlier concessioning and current concessioning of comparable areas under its jurisdiction.

Two of the four cases represent an increase of service design powers for the operators. These are the cases North-Holland and South-Holland. But, as we will see, these two cases diverge substantially in their implementation. The two other cases represent a decrease of service design powers for the operators. These are the cases of North-Brabant and Groningen-Drenthe. Here too, we will see that divergent solutions have been implemented.

#### **3.1 Tactical level shifting towards the operator**

##### **3.1.1 North Holland**

The concession North Holland North was for the first time submitted to competitive tendering in 2002 (start of operation on 15 December 2002). The incumbent—Connexxion—won this concession that gave the operator only limited tactical powers. Even though ridership growth had been one of the bid evaluation criteria, the cost aspect (for the production of the pre-determined timetable-hours) had been the main selection factor. The contract includes a bonus/malus on punctuality and ridership growth.

The Provincial council had a preference, at the time, for an arrangement that prescribed the network in detail. A network restructuring had taken place only one year before the invitation to tender as a consequence of a budget reduction unexpectedly imposed by central government. This had led to reduction of frequencies and the discontinuation of several lines. Due to this, further network restructurings were seen as unwelcome.

The contract allowed some room for experimentation by the operator, but the contours were largely prescribed in advance. All of these experiments have been discontinued in the past years upon the initiative of the Provincial administration. Connexxion happily agreed to this because of the expected relatively high costs and low ridership. As the contract gives little incentives for the operator to improve or promote services, the operator did indeed little to market his product.

The approach chosen for the tenders organised in 2005 (concessions *Haarlem/IJmond* and *Gooi en Vechtstreek*) was therefore substantially different compared to the experience in North Holland North. The preference of the majority of the Provincial council has changed, and now supports the strategy from the Provincial administration to allocate the tactical level clearly on the side of the operator whereby the province focuses on the efficient and fair allocation of the public transport budget, while the operator focuses on the development of cost-effective services that fulfil passenger demand. This choice was argued by the observation that operators are better able to identify demand due to their daily contacts with passengers. The Provincial administration came to the conclusion that the approach used in this first tender round laid a rather heavy toll on its workload in terms of preparation of the call for tender, required expensive and time-consuming research, forcing them to make all kind of tactical and operational decisions which, they believe, should actually be made by the operator. Furthermore, it entailed continuing negotiations with operators during contract execution (Provincie Noord-Holland, 2004).

The province wanted to stimulate operators to come up with creative solutions that lead to more ridership and more customer satisfaction. Minimum requirements were only set there where the province felt that the interests of specific traveller groups might otherwise be endangered. 'Functional demands' were formulated on the basis of attraction points (origin and destination areas). Public transport profiles were described for each type of attraction point. Every profile describes the minimum service level that has to be available, the required connections with other areas and attraction points, the maximum walking distance to stops, the service period, the frequencies and intervals. These requirements define a basic service level that is lower than the existing service level, but that is based on identical norms throughout the whole area such as to avoid preferential treatment. The operator is then free to design routes, frequencies, etc for as much as the minimum service level is provided.

Financial incentives are included and aimed at maximising ridership. All ticket revenues remain with the operator. Growth in revenue and increased customer satisfaction lead to bonuses. The rationale is to force the operator to take the passenger's perception into account rather than having the province prescribing in detail what they think passengers want. Such an approach too often leads to a too simple focus on describing such rational factors such as frequencies or travelling time, but ignores more complicated 'soft' factors such as comfort or travel experience (Langzaam verkeer, 2003).

The market consultation which was undertaken in the summer of 2005 to consult operators about the approach confirmed that the approach chosen was welcomed by the potential operators and that it stimulates entrepreneurship. The five consulted operators gave a lot of information that helped to improve the tendering and were mostly very positive about the approach and quality of the concept Program of Demands.

Both concessions will start operations in December 2005. Both were again won by the incumbent operator Connexxion. Whereas the operator in the concession North Holland North limited its actions to some fare actions and timetable changes, the (same) operator now promises more actions in the new concession areas. These include suggestions by the operator to improve commercial speed, improve quality by increasing frequencies, implementing air conditioned busses and special high comfort busses on longer distances and a new approach to service marketing by, for example, introducing different brands for different bus products in the region.

It is now perceived by the Province to be unlikely that the operator will engage in 'strategic behaviour' due to the substantial bonus-malus on passenger growth and customer satisfaction included in the concession text, and the personal commitment from management of the transport company that was expressed. It will, however, be necessary to wait one or two years to be able to draw conclusions on this new approach.

### **3.1.2 South Holland**

The 'Drechtsteden-Alblasserwaard-Vijfheerenlanden' (DAV) area of the Province of South-Holland, located south-east of the city of Rotterdam, counts 14 municipalities and covers 385 km<sup>2</sup>. It represents about 15% of the total volume of public transport under the responsibility of the province. It was tendered for the first time in 2002 for a concession period lasting from 1 January 2003 until 1 January 2007. The main average characteristics for the period 2002-2005 are: 200.000 timetable-hours, 80 million passenger-kms, 6 million Euro revenues from ticket sales and a yearly lump sum subsidy from the province to the operator of about 11.4 million Euro (all garages and vehicles being owned by the operator). A second area was tendered in the same period under slightly different conditions.

The relatively short four year concession period was chosen to allow a new geographical division of concession areas made necessary by external factors. As the neighbouring city of Dordrecht will lose its status of independent transport authority, this area will be added to this concession in 2007. Furthermore, the regional railway line Dordrecht-Geldermalsen, that was not yet decentralized from the Ministry to the Province in 2002, will also be included to form a multi-modal concession in 2007.

The authority did not give much tactical freedom to the operator during the 2002 tendering round. However, the concession text gave the operator the freedom to modify the network after the first year of operations under the conditions that the total number of bus-hours was not reduced, that passenger growth was the main aim of the proposed changes and that consumer organizations had been consulted and had agreed upon the proposed changes.

The following statements can be made, looking back on the achievements of the DAV tender after three years of operation:

- The time between granting the concession (August 2002) and the start of operations (1-1-2003) was far too short. The concession changed from one operator to another and the new operator could not have the new low-floor buses available at the start of the concession. As a consequence of this, very old buses were used for several

month, leading to a temporary performance below quality agreement (punctuality, comfort and environment).

- There was a reduction in ticket revenues, resulting in a decrease of cost coverage from 36% in 2002 to 34.4% in 2005, in line with the stagnation or reduction trend in all concessions in the province in recent years.
- The operator used its possibility to amend the timetable after the first year of operations, but this is perceived to have taken place more to optimize supply in terms of personnel roster efficiency than in search of new passengers. It resulted in less clear frequencies and a partial loss of clockface timetable. Although consumer organisations were not pleased, the province had no contractual instrument to refuse the changes as there is no contractual obligation to maintain clockface timetables. However, a letter to the operator where the province expressed its concern led the operator to renegotiate with consumer organisations. As a result, the old timetable was more or less re-established after the second year of operation. Two new lines corresponding to long-standing wishes from local authorities were also introduced after the first year, but these delivered only very limited ridership growth and were discontinued in the next year. The network development vision, which was part of its bid, was indeed implemented but led to only disappointing results. The general impression is that, all in all, the freedom given to the operator did not result in the expected improvements.

This last point in particular led to the province to develop a new approach for the next concession area to be tendered (Duin- en Bollenstreek/Leiden & Rijnstreek/Midden-Holland, DBLRMH). The limited use made by the operator of the tactical freedom granted in the DAV area led the province to devise a regime that should provide the operator with more incentives to develop the network by establishing a separate 'development' budget of € 1 mln besides the general 'operations' budget of € 24.4 mln for the network to be tendered. The operator receives that additional budget only if actions in terms of development of the network (tactical level) can be shown. More freedom was given to the operator to design network and timetable at the time of tendering. It is reported that this led to an improved supply and a 20% better value for money in the next tendering round.

In the meantime the second tendering of the DAV-area is being prepared. In view of the experience to date, the following changes are expected for the operation period starting on 1-1-2007<sup>3</sup>:

- The area will form a 12 year multimodal concession, including the original DAV-area, Dordrecht and a railway line. The contribution of the province will be around 20 million year, making this one of the largest tendered concessions in the Netherlands up to now.
- A time frame of a full year will be reserved between granting the concession and start of operations.

<sup>3</sup> This may be delayed due to continuing negotiations with the Ministry of Transport around the financial arrangements for the decentralisation of the railway line. In addition to this, uncertainties related to the introduction of the (nationwide) chipcard system may also play a role.

- More tactical freedom will be given during the tendering procedure, including freedom of network design. However, municipalities will be allowed to request minimum service levels. The requirements will be stricter for the railway line, in line with the province's wish to re-enforce the function of this line.
- The concession awarding procedure will consist out of quantitative indicators (value for money) as well as qualitative indicators.

## **3.2 Tactical level shifting towards the authority**

### **3.2.1 GGD Area**

The GGD-region consists of the province of Groningen, the province of Drenthe and the city of Groningen. These authorities have decided to co-operate as transport authorities due to the large interdependencies between the transport flows located on their territory.

The first tender in the GGD-region was granted to Arriva. Operations started on 1 June 2004. Before that date, Arriva was submitted to a performance contract including various bonus and malus issues. The operator did not agree to commit itself to ridership growth due to the perceived high interdependencies of ridership growth with government policies, such as fare policy, collective workings agreement, subsidy levels, land-use planning decisions and infrastructure investments.

This point of view from the operator was largely endorsed by the involved provincial administrations, though some of the participating civil servants are also disappointed by the 'commercial behaviour' exhibited by Arriva. Others participating civil servants show more understanding for that behaviour and state that:

- It is clearly in the commercial interest of the operator as he cannot reap the benefits of his efforts coming to fruition after the end of the concession period.
- The vision of the Brokx Committee (which led to the current legislation and the idea that the operator should take care of the service development within a competitive tendering framework) failed in its analysis and took insufficient account of the roles of the parties involved and most logical role partitioning.
- The current developments, with their strong emphasis on cost reduction, lead to insufficient investments. Efficiency increases, but there is no structural improvement to the quality of the services as the creativity of the carrier is limited to operational aspects.

Official documents from the GGD-region state that these interdependencies, the lack of perspective and the view that the current legal setting will hamper the development of a more market-minded behaviour, all reduce the entrepreneurial space of the transport operator to such an extent that the authorities of the GGD-region believe that public transport should be organised by the authorities themselves (GGD-overheden, 2004).

This led them to choosing, for the 2004 tender, to restrict market forces even further compared to the previous performance contract. The operator is now limited to that part of the decisions that can be taken by an operator on its own without direct interference by government, i.e. operations without tactical responsibilities despite the fact that the

operator would also like to be responsible for information provision and customer satisfaction.

The co-operating authorities then created a Public Transport Bureau (*OV Bureau*) to carry out most of the authorities' tasks related to public transport. This bureau is currently being set up, but it is responsible for service levels, fares, quality and control on the operator. The GGD-authorities and municipalities are responsible for traffic speed on the road network and other policy measures that have influence on public transport attractiveness and through which they will try to improve the success of public transport.

### **3.2.2 North Brabant**

The first competitive tendering in the province of North Brabant took place in 2001. The eastern concession was granted to BBA-Connex<sup>4</sup> after competitive tendering. The western concession was directly awarded to BBA, at the same conditions as in the eastern part, as part of a previously agreed transition path to a competitive regime. The four years concessions started on 1-1-2002 with an option for a 2 year extension depending on the fulfillment of specific criteria. Three medium size city concessions in the province (Breda, Tilburg and 's-Hertogenbosch) were directly awarded to BBA by these respective cities who had the status of independent transport authority at the time. The larger urban area of Eindhoven and Helmond, constituting a different regional transport authority within the province (Stadsregio Eindhoven, SRE) gave their concessions directly to BBA and Hermes (a subsidiary of Connexion).

Based on the results of a monitoring system the province decided at the end of 2004 not to opt for the extension of the concessions. The monitoring system included indicators on the process, the performances and the effects. The scores on the indicators on 'effects' were in majority negative. Indicators such as passenger growth and modal-split were included here. The operator claimed that the fact that these indicators were below contract values could not only be blamed to the operator; the province concluded nevertheless that the results provided sufficient basis to not opt for the prolongation. The monitoring process and the conclusions drawn from were essential 'cultural' learning points for the province: its administration has to learn to deal with contracting parties with another behavioral rationale than that of the public service. This may require hiring people with skills adequate to devise and enforce commercial contracts besides developing sensible policies. Also it was a learning point for the operator, as in the past indicators on effects were regarded more as general policy objectives than as strict monitoring features with concrete implications.

Personnel change in the transport administration of the province and at the level of the elected official responsible for transport strongly influenced the change in approach. Whereas the former administration had engaged into excessively ambitious public transport innovation measures that had in the end not generated the expected improvements, the current administration can perhaps be characterized by a more down-to-earth

<sup>4</sup> BBA-Connex is the main Dutch subsidiary of Connex. BBA that was previously owned by the province of North Brabant (and several local authorities) was sold to Connex prior to the introduction of competitive tendering. BBA-Connex is often referred to as BBA to avoid confusion with the Dutch operator Connexion, currently owned by the Dutch state.

approach. The opinion is that transport operators have not been sufficiently client-minded in the past. One of the reasons for this is seen to be the historically grown rigidities in service planning and rostering that, in turn, impair the implementation of service optimizations (both in terms of passenger-attractiveness and cost-reduction). For this reason, it is thought that the tactical function should perhaps not be located with the operators. Externally designed services are then seen as a means to force change on structures that have become ossified. Furthermore, the abolition of the urban passenger transport authorities led the city concessions of Breda, Tilburg and 's-Hertogenbosch to be handed over to the province, which provided another opportunity for reform. The larger SRE area, however, continues to exist as a separate authority.

The new approach chosen in North Brabant effectively introduces a clear split between the strategic, tactical and operational levels. The province remains responsible for the strategy (public transport aims defined in the regional transport plan), but a separate 'transport architect' is hired by the province to fulfill the tactical function. The basic idea is to add up all existing transport demand and to re-design an 'optimum network' based on scientific methods of network optimization. This fits with the public transport policy promoted by the province and which attempts to overcome product differences (local transport, regional transport, demand-responsive services, train-taxi, etc) that have appeared over the course of time. For this purpose, a young company specialized in such network design was hired to redesign the services on the basis of optimization algorithms. The province split its area into 4 geographical concessions, and one longer-distance express-bus concession for two routes linking the province to the city of Utrecht. The five concession packages with pre-defined routes and timetables were then put out to tender in 2005, with operations due to start in 2006.

The operator, limited in this setting to the operations of pre-defined services, is chosen through a multi-criteria process. The unit production costs, that also define the price for marginal work that may be required when services are redesigned during the concession period, have a heavy weight factor within this evaluation. Some parts of the tactical function remain, though, on the side of the operator. It is stated that the knowledge of the operator on network and timetable design and operational aspect will be used in the process of preparing the annual operational plan. The operator is invited to propose every year changes in network and timetable. The decision to implement these proposals or not is, however, taken by the authority. The cost of the operator's personnel that will be allocated to these tasks is part of the bids.

The tactical level itself will within short also be submitted to a competitive tendering procedure to provide services of service design and re-design during the concession period. It is expected that at least some of the operators will be interested in bidding for this contract; note that the company that prepared the first round of network and timetable is actually a subsidiary of Connexxion. But some of the bidders may actually come from other sectors.

#### **4 ANALYSIS OF SHIFTS**

Whereas legislation in other countries substantially limits local and regional transport authorities in their choices of organizational form, one of the essential features of the

Dutch public transport concession regime is the substantial leeway given to the 19 passenger transport authorities in this respect. This freedom proves to be substantial, as was exemplified by the cases presented above, even if the limits imposed by legislation (level L2.1) and regulation (L2.2) hamper the appearance of other organizational forms that may be desired by some authorities or that are common in other countries. These various institutional levels are presented in Table 1.

*Table 1 Institutional levels*

<b>Institutional levels</b>	<b>Levels of social analysis (Williamson, 2000)</b>	<b>Institutional setting of public transport (van de Velde and Leijenaar, 2001)</b>
<b>L1</b>	<b>Embeddedness</b> Informal institutions, customs, traditions,..	<b>Customs and traditions</b>
<b>L2.1</b>	<b>Institutional environment</b> Formal rules of the game	<b>Legal Regime</b> Public transport legislation
<b>L2.2</b>		<b>Regulatory Regime</b> Regulation enacted within the scope of the law
<b>L3</b>	<b>Governance</b> The play of the game	<b>Governance</b> Choices of organisational form by transport authorities within the scope of laws and regulations
<b>L4</b>	<b>Resource allocation</b> Decisions on contracts, etc	<b>Contract</b> Choices of incentives in relations between authorities and operators, within the scope of the chosen organisational form

We believe that the developments taking place in the Dutch competitive tendering and concession practice provide, by their width of experience, a particularly useful benchmark in an international context. Furthermore, the recent evolutions in these practices, at levels L3 and L4 and the relation to the failures and successes that lay behind them, can provide precious information to other authorities contemplating the introduction of competitive tendering regimes that go further than simple gross-cost route-by-route contracts.

This section of the paper will make an analysis of the main findings from the case studies presented above with a specific focus on the shifts in allocation of the tactical level between authority and operator. It should be noted that the analysis made here is preliminary to a wider study reviewing such shifts, as well as contractual and other institutional evolutions in the Netherlands and in other countries. In a number of cases, additional research is needed to draw firmer conclusions.

#### **4.1 Variety of configurations achieved within the institutional setting at level L2**

A first fundamental observation concerns the variation of organisational settings that can currently be observed in the Netherlands at the levels L3 and L4.

It is remarkable to note that several transport authorities have managed to realize a wide variety of interesting tendering processes and contracts from the point of view of giving to operators substantial freedom to determine the transport services provided (transfer of the ‘tactical level’ to the operator). What is peculiar about this experience is that it has

proven possible to realise this despite the fact that negotiations are prohibited within the tendering procedure<sup>5</sup>.

A further analysis is needed to evaluate the potential impact and necessity for a possibility of negotiation. Such negotiations are common in the French regime, but currently also in the Copenhagen contracts, even though it is based on rather simple gross-cost, route-by-route contracts. Note that the current European proposals for a new Regulation in this sector also includes the possibility for negotiation.

## 4.2 Conflicting rationalities

The frictions that appeared within the transition from a situation of concessions awarded without competition to a situation of competitively tendered concessions can illustrate some interesting behavioural differences pertaining to the attitude to contracts by authority and operator. The following examples are illustrating:

- In the Northern provinces the operator acted according to the letter of the contract. He paid fines were appropriate and only took measures to avoid fines when this was viable from an economic point of view. The authorities had expected that the operator would improve its performance in all cases instead of adopting such an economic driven approach.
- In North-Brabant, the option to extend the concession was not granted as threshold values stated in the concession were not reached. The operator had not expected this decision as several of these values were partly out of the influence of the operator (such as passenger growth).

It is indeed simple to say that this could have been foreseen, as *pacta sunt servanda*, or that the parties to the contract should have known better. It is, nevertheless, illustrative of the mindset that is (still?) present in the sector on both sides of the table, and of the learning process that is still required. Note that similar frictions or misunderstanding appeared in the case of the net-cost tactical contract in Helsingborg (Sweden) a few years ago.

As for any commercial company, turnover, return and continuity are essential motivations. The danger is that the operator engages in strategic behaviour and misuse of its freedom in the eye of the authority. It is therefore essential, when using a more functional approach to tendering and contracting, to use the right steering elements both at the moment of tendering and for the whole contract period. The main challenge is to stimulate the operator to develop the desired behaviour and to punish unwanted behaviour. The set of contract parameters and its calibration are indeed essential elements in the success such approach. Further analysis on the bonus/malus arrangements and other incentives used in the contracts should be carried out to be able to draw further conclusions on the adequacy of the contracts as implemented in the Netherlands until now.

<sup>5</sup> The Netherlands have chosen for the rather strict service tendering procedure according to Directive 92/50.

### **4.3 Appearance of the tactical level as a separate institution**

The disappointments or misunderstandings presented in the previous point lead in some cases to a shift towards more control on the tactical level by the authorities at the next tendering round. This happened in various forms. We saw in the GGD-case that tactical powers were shifted to the authorities' side that developed a specific bureau to carry out the tasks. North-Brabant, on the contrary, decided to contract it out separately from the operations. In the case of South-Holland, the evolution of contracting practice indicates a pursued allocation of the tactical function to the operator, but under a much stricter monitoring by the authority, including a separate budgeting.

This illustrates that similar disappointments lead to different reactions. One of the interviewed civil servants pointed to the fact that most authorities actually want the operator to develop the network, and would rather avoid doing it themselves. But in practice, he observed that it is very difficult to make the operators change things, and indeed in many cases nothing happens. Another observed that the developments in North Brabant and GGD are strikingly similar, although the current practices are seemingly different. The absence of a separate public transport bureau in North Brabant is the result of the fact that no inter-authority co-operation is needed in this Province.

It also illustrates that different reactions can lead to similar new markets. Another interesting observation out of the recent experience is that different authority reactions, such as outsourcing network design as in North Brabant and determining a separate network development budget as in South Holland, both lead to the appearance of a new market for service design. In this case, Connexxion develops a subsidiary that is selling services both to North Brabant and to Connexxion in the case of South Holland. Connexxion is reported to be happy about this development as this helps to upkeep these planning competences in the industry. So, ironically, seemingly opposite movements as to the allocation of the tactical function lead to the appearance of a similar separate so-called network architect. The main difference is that the control on the actions of the architect—and this is the core of the entrepreneurial function—rests entirely with the authority in North Brabant while it rests with the operator in South Holland.

The South Holland case nevertheless illustrates a tendency to a growing involvement of authorities in tactical issues. One could say that this is 'only one finger in the machine', and not steering the machine directly as in GGD or indirectly as in North Brabant. The future will show whether this approach or that currently attempted in North Holland will prove to be more successful.

### **4.4 A probabilistic view on the realization of the legislator's dream**

The general idea of the new passenger transport legislation was that operators could get concessions including a large degree of freedom of service design under the general control—at arm's length—by the transport authority. Several authorities tried to implement this approach, but this proved to be more difficult than anticipated. One of the difficulties was to define clear criteria for awarding concessions. Experiences showed that bids—as could be expected—focussed on the awarding criteria as formulated in the call for tender rather than on overall quality per se. An example is the usage as an

evaluation criterion of the number of bus kilometres supplied: chances of winning could be increased by increasing the production of cheap bus-kilometres at times and places where there was very little demand, whereby the incentives given to the bidders were perceived to be—and were—quite remote from the general interest.

The tactical function is given to the operator in only in a minority of the recent procedures. In the majority of cases there is a strong control by the authority at the tendering stage, although in some cases more freedom is given to the operator in a later stage of the concession (as the first tendering round in South Holland). In view of this and of the cases presented in this paper, we believe there is a rather high probability that the general path that will be taken by most authorities in the Netherlands will no be that currently taken by North Holland.

This development is very much at odds with the ideas propagated by the Brokx Committee and on which the current reform is based. We believe the low probability of seeing the regime develop in the direction that was recommended by the Brokx vision is linked to the ‘psychology’ of the actor at the level of the local or regional transport authority. On the basis of the current experience, we tend to believe that on the whole, civil servants—perhaps more at this level than at the national level—are more likely to exhibit a risk-averse behaviour than to behave like entrepreneurs. The approach taken in North Holland appears to be an exception and requires the availability of policy makers with a broad field of competence and the availability of project managers that have adequate understanding of both content and process. They must be able to develop and implement policies in co-operation with parties located outside the civil service, have adequate communication skills with the partners present in this field, and also have an innovative approach to an authority’s action in this field. This specific mindset can certainly not be assumed to be absent from the local or regional authority level, but it is very unlikely to be present everywhere. In short, the probability to see the dream of the legislator come true is low, but certainly not zero.

All in all, one could say that the architects of the reform paid too little attention to the behavioural/human aspects of the local authority and looked at the transformation too much from their own reference framework. They have not sufficiently tried to transpose themselves in the mental and behavioural world of civil servants at the local and regional level.

#### **4.5 Mutual learning and policy needs**

Transport authorities learn from the experience gathered in earlier tendering rounds, but do not seem to learn very much from each other. Knowledge management and knowledge exchange seems to be undervalued. Past experiences—especially failures in contractual relations with operators—seem to be largely determinant, but some authorities tend to oversimplify their analysis. Causes and consequences are not always clearly distinguished when conclusions are drawn from experiences to date. The disappointment over the behaviour of the operator in South Holland and North Brabant could be seen as part of a learning curve, but also as the consequence of a rather naïve perception of the behavioural grounds of private sector companies.

Improvements in future tendering rounds require from the authorities the ability and the readiness to question their own behaviour. The ‘corporate culture’ required for this is not necessarily present within all authorities concerned. An additional problem is that of the building of adequate expertise on the side of the authority. Whereas some authority prefer to organise the competitive tendering in house, others sub-contract most or all activities to consultants. The first option bears the risk is missing useful insights and of a long learning curve, the second offers better chances for success but bears the risk of an insufficient build up of competences leading to rather conservative (risk averse) choices in type of organisational forms.

A fundamental issue for the future of the Dutch regime is whether new policy measures are needed to bring the current development to a good end. If the aim is to ensure that operators carry the tactical level and not only the authorities, then it will be necessary to ensure that operators are able to fulfil this task. In this case it will not be sufficient if only 10 or 15% of the authorities engage in this path (seen from a probabilistic point of view). This is presumably insufficient a market size to ensure that several competitors develop the necessary skills to carry this function. This would then only result in further disappointment of those authorities who have tried to transfer this powers to the operators, and ultimately to further concentration of the tactical level on the side of the authority.

#### **4.6 The near future: funding arrangements and awarding mechanisms**

One of the particularities of the Dutch experience is the selection mechanism based upon fixed budgets and/or supply maximization. Local authorities have no local taxation power and all public transport subsidization budgets come from central government. The decentralization of public transport responsibilities to the provinces—contrary to the experience of several other countries—did not involve in the Netherlands any true decentralized funding of public transport. Central government funding was replaced by central government transfers to regional transport authorities. These then have to be spent on public transport or are foregone.

The result of this funding arrangement is that transport authorities experience no incentives to minimize their public transport spending in the period studied. The allocated budget has to be spent and competitive tendering is used as a mechanism to maximize production under specified public service obligations. The simple cost-cutting experience of some Scandinavian practices is therefore avoided. It should be noted, though, that supply maximization provides no guarantee for welfare optimization. It does, however, provide other interesting opportunities for allowing operators to carry the tactical function (service re-design). The example of North Holland shows that this funding arrangement allows to separate the ‘social’ from the ‘commercial’ by allowing the authority to define the minimum services (‘social function’ or public service obligation) while the operator can focus on the commercial part (i.e. maximize revenue with the remaining subsidy after providing the socially required services) without requirement for the authority to be involved in the detail of network design or selection.

Recently introduced new funding arrangements are likely to lead to a change in selection mechanisms where supply maximization will loose in importance. In the new fund-

ing arrangement, several central government transfers for road investment and management and for public transport are bundled into a single transfer for transport that can be freely allocated by the provinces to either transport infrastructure investments or to operations of public transport. Because of this savings achieved in the public transport sector will now be 'reallocatable' to other items of the provincial transport policy. It is however too early to see all consequences of these new arrangements.

## 5 CONCLUSIONS

The cases presented showed a wide variety of arrangements at the levels L3 and L4 and the location of the tactical level within level L4 shows the most interesting changes in the Netherlands.

A main issue for the future is whether the practice across the country converge towards some common model. Will there be a tendency for the authorities to entangle 'their fingers in the machinery' or will the dream of the legislator come true? The current observations of the analysed cases, but also taking into account the rest of current practices in the Netherlands, seems to indicate a strong and/or probably growing involvement of the authorities at the tactical level; which also entails a substantial monitoring need. But it is too early to predict the outcome of the current learning process; many of the interesting new concessions, such as North Holland, South Holland or North Brabant, still have to start operating. It is only after a few years that will become more apparent whether this tendency is confirmed and whether it is the result of some intrinsic feature of the current regime at level L2, or whether it was only a temporary behavioural feature that could be overcome by emulation. The future will also tell whether the institutional setting proves fit to find the right balance at levels L3 and L4 between the equally undesirable extremes of uncontrolled central planning with route operators and ineffectively controlled network concessionaires.

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