

# Direct and delegated management in provincial urban public transport in France in 2003

## *Using the urban public transport database*

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### **Introduction**

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This work falls within the framework of studies carried out by Certu on urban public transport contracts. The aim here is to use the urban public transport database to take stock of direct and delegated management of urban public transport in France.

### **Certu's work on the contracts**

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The work done by Certu on public transport contracts (both urban and non-urban) can be defined by three approaches: analysis, observation, methodology.

#### ■ **Analysis**

The analysis of contracts focuses on their contents, by attempting to see how a certain number of topics are dealt with. These topics include, among others, the financial system, implementing investment, control and monitoring by the organising authority and the rights and obligations of the contracting parties.

This analysis can also focus on the procedures leading to the signature of the contract.

#### ■ **Observation**

As with analysis, observation can focus on both the contracts themselves and the procedures of which they are the result.

The "Contract life" study therefore deals with the way in which the contract "functions" on a daily basis, from signature to expiry.

The observatory of procedures permits seeing how procedures (the delegation of a public service or a public contract) have functioned in networks that have had to renew their contracts during a given period.

#### ■ **Methodology**

Lastly, the approaches of analysis and observation mentioned above permit the formulation of methodological elements aimed at local authorities responsible for organising public transport in order to help them draw up contracts adapted to delegated services.

Regarding contracting, the aim is to progress from "ready to wear" to "tailor-made" conditions.

## **The urban public transport database**

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### ■ **Cooperation between Certu / DTT / GART / UTP**

The urban public transport database used in this study results from collaboration between Certu, the Directorate of Land Transport, the Group of Transport Organising Authorities and the Union of Public Transport.

It is supplied and updated every year by Certu which relies on the Cete (Technical Study Centres) network to obtain the data.

### ■ **Technical, financial and legal data**

The urban public transport database contains technical, financial and legal data on over 240 urban networks (2003 directory).

These data can be used to compare networks at a given moment or analyse changes to networks through time.

The main legal data available in the database are the:

- legal status of the organising authority and the company
- type of management
- type of procedure used
- type of contract
- date of signature and term of the contract
- affiliation with a larger company
- etc.

### ■ **Limits of the system**

The rate of response of organising authorities to the annual survey performed to supply the database has increased considerably since its reorganisation and simplification, although this rate was quite poor during the first few years, thereby somewhat restricting its use for historic studies.

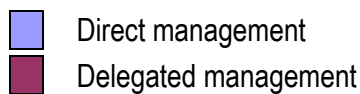
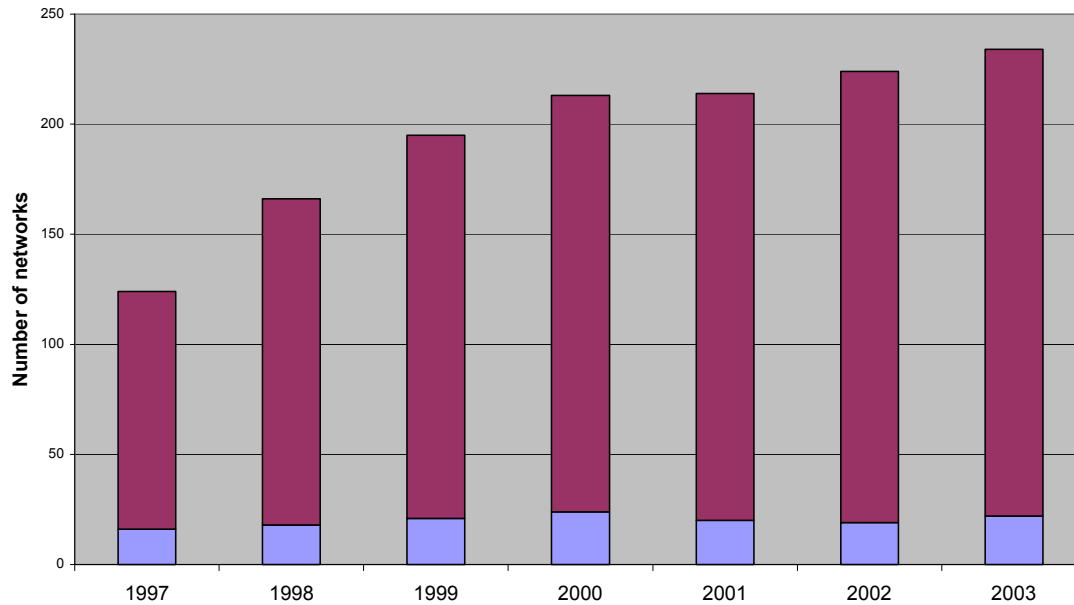
Furthermore, the questions of the annual survey were not all filled-in completely by the networks that answered. In particular, the legal data are not always supplied as fully as they could be.

Lastly, the urban public transport database is limited at present to provincial urban networks, consequently, the analysis cannot cover departmental or regional transport services, or the urban networks serving the Paris region.

## Type of management

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### ■ Progression 1997-2003



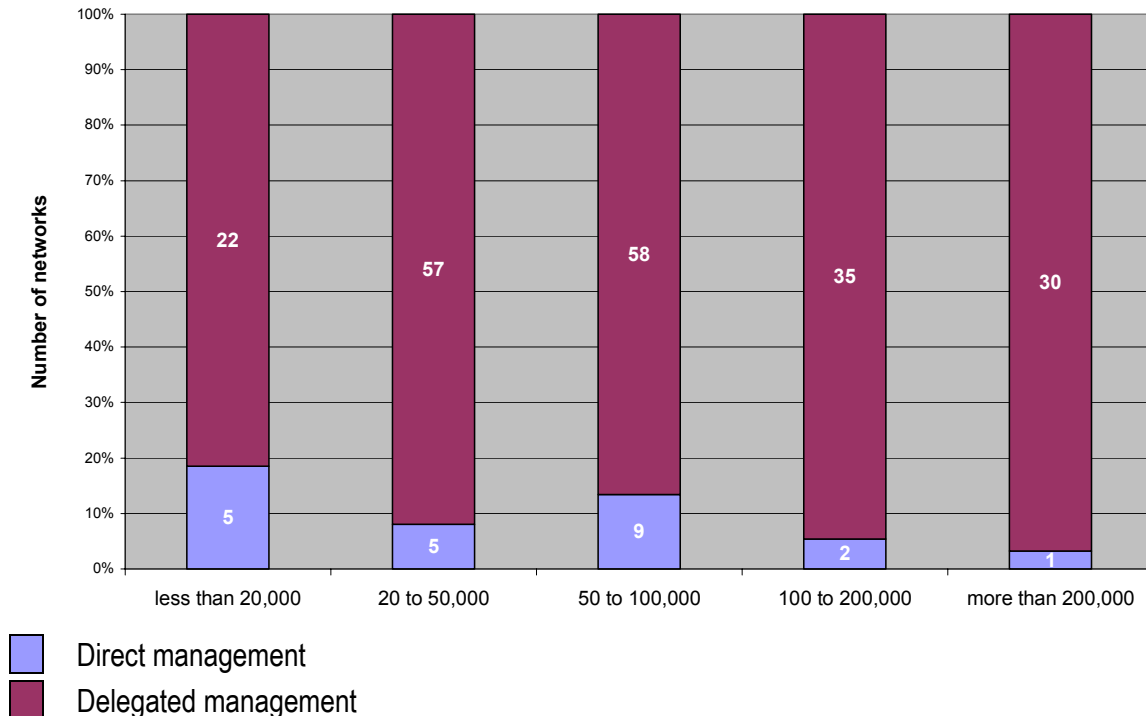
As can be seen there was a substantial increase in the response rate from 1997 to 2000.

There were about twenty networks under direct management, with fluctuations that should be considered with caution.

What is important here is the ratio between direct management and delegated management. It should be born in mind that about 10% of provincial urban networks were operated under direct management (management companies) in 2003.

## Type of management

### ■ Distribution by size of network for 2003



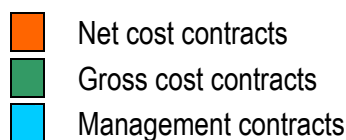
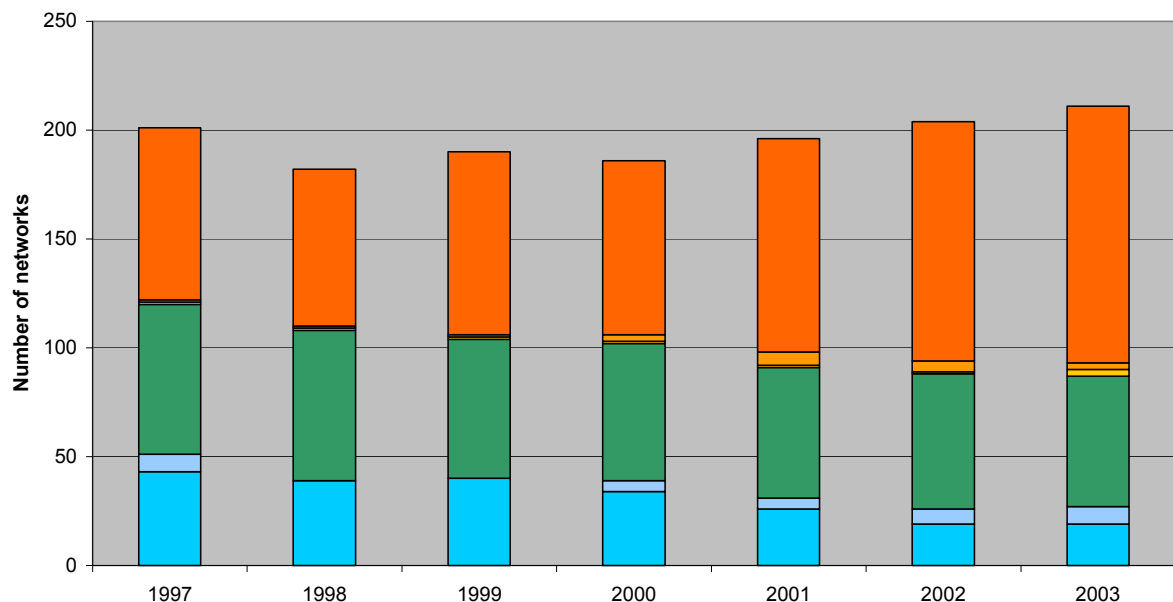
Management companies concern small networks rather than large ones. They concern almost 20% of networks with fewer than 20,000 inhabitants. For these small networks, it can be assumed that the organising authorities call on professional structures due to the complexity and technical nature of operating a transport network. Marseille is an exception to this rule as it has a population of over 200,000. Of the 22 delegated managements recorded in the database in 2003, 19 concerned urban transport perimeters with fewer than 100,000 inhabitants.

## Types of contract

In principle the contracts set out the rights and obligations of the parties, their roles and prerogatives, and the distribution of responsibilities between the organising authority and the operator. In particular, the contract must stipulate the party that takes the commercial risk (related to the revenue) and the party that takes the industrial risk (related to the expenses).

- If the organising authority takes the commercial risk and the industrial risk then the contract is called a **“management contract”**. The management company involved obeys the same rationale; it is represented in the public urban transport database in a only marginal way.
- If the organising authority takes the commercial risk while the operator takes the industrial risk, the contract is called a **“gross cost contract”**.
- If the operator takes the commercial risk and the industrial risk, the contract is called a **“net cost contract”**. Farming out and concession obey the same rationale; their presence in the public urban transport database is marginal.

### ■ Progression 1997-2003



The chart above shows:

- relative stability for gross cost contracts (in green),
- a reduction of management contracts (in blue),
- an increase in net cost contracts (in orange).

Before studying these trends in more detail, we shall take a look at the procedure used to finalise and sign these contracts: delegation of public service or public contract.

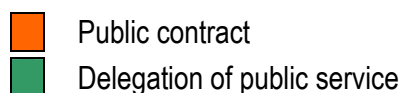
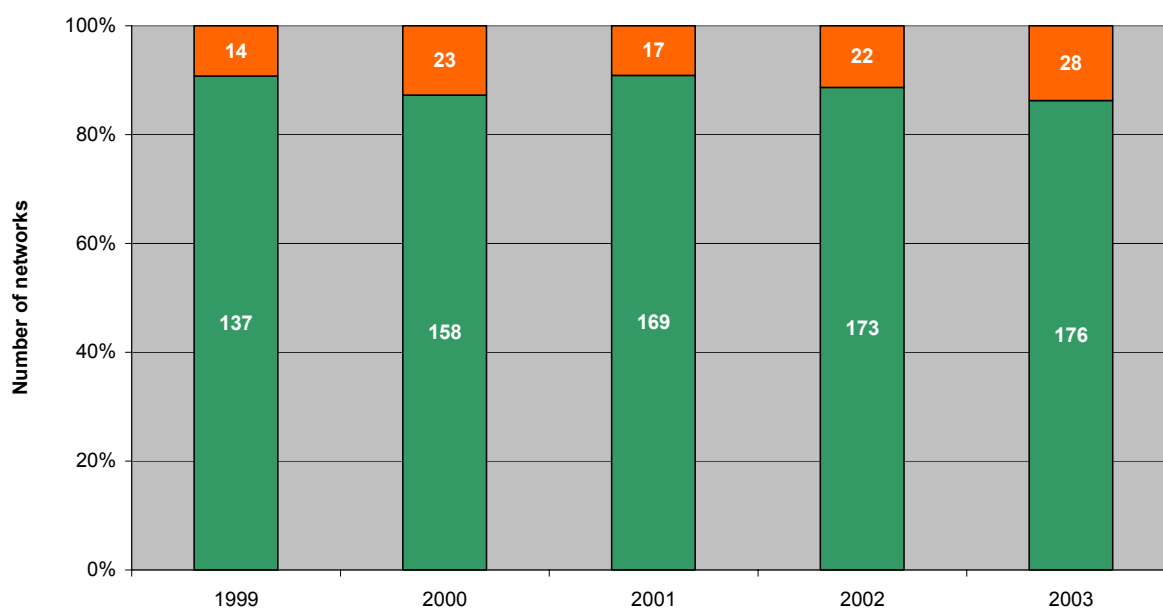
## The procedure used

The definition of delegation of public service is given in article L.1411-1 of the General Code of Territorial Authorities:

*“The delegation of a public service entails a contract by which a legal entity subject to public law entrusts the management of a public service for which it is responsible to a public or private delegate, whose remuneration is to a great extent related to the results generated from operating said service. The delegate can be responsible for building structures and procuring goods necessary for the service”.*

According to this definition, net cost contracts can obviously be assimilated with public service delegation contracts while management contracts cannot. The latter are therefore public contracts. This question is more difficult to answer in the case of gross cost contracts which, a priori, are public contracts, since the operator’s remuneration is not substantially linked to the results generated by operating the service (the commercial risk is taken by the organising authority). However, if the contract includes incentives, these may result in pegging the operator’s remuneration more or less substantially to the operating results.

### ■ Progression 1999-2003



Although still limited, use of the public contract procedure is increasing (16% in 2003).

The 16% of public contracts signed in 2003 also cover the outsourced management contracts described above, though they represent more than these management contracts alone. We can assume that they also include gross cost management contracts (cf. our remarks in the previous paragraph).

However, if all gross cost contracts were subject to public contract procedures, public contracts would not represent 16% but about 40% of the procedures used in 2003.

Thus it can be seen that this aspect of choice of procedure has not yet become stable.

If we put forward the hypothesis that gross cost management contracts fall within the competence of public contracts, the urban public transport database shows a considerable distortion between the types of contracts present and the procedures used (the share of public contracts should be 40% and not 16%).

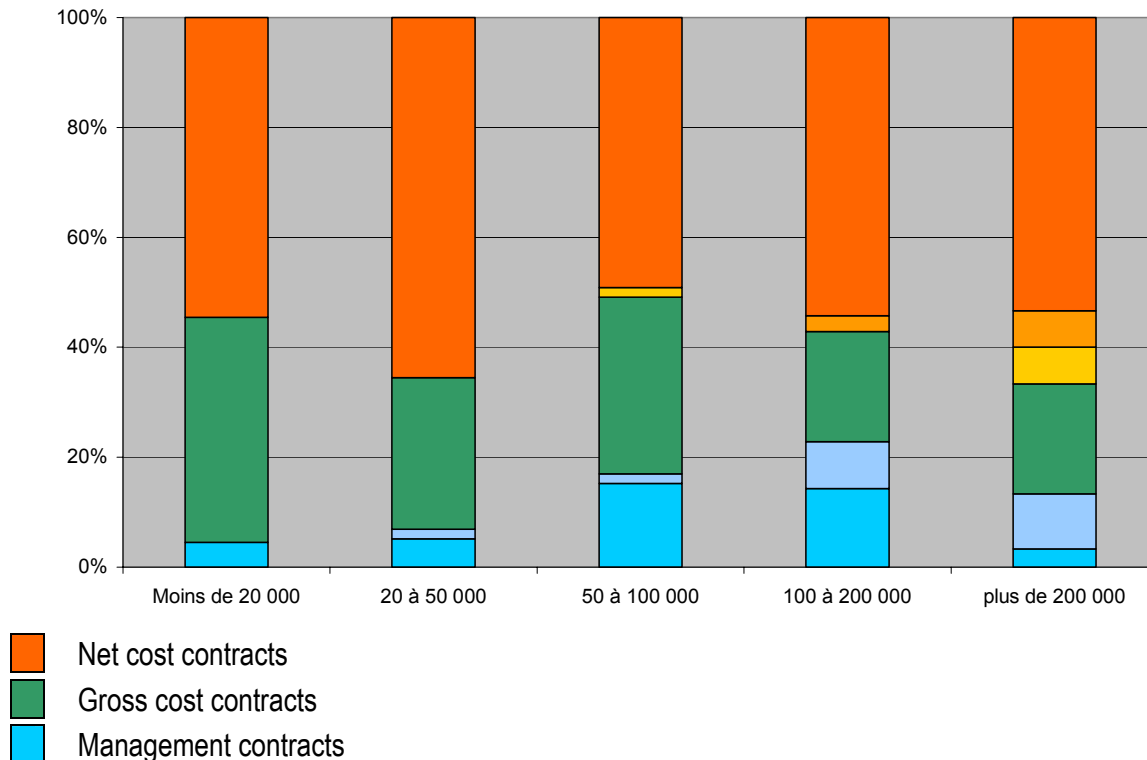
The increase in the number of contracts signed as public contracts over the last three years (17 contracts in the database in 2001, 22 in 2002, 28 in 2003) perhaps shows that this distortion is coming to an end.

The question this raises is: do transport organising authorities opt first for the type of contract or else for the type of procedure?

- If the transport organising authorities opt first for the type of contract and if the distribution for 2003 between the different types of contracts continues at the same level (60% of NC, 40% of GC+M), we should see an increase in the number of public contracts over the next few years, with gross cost management contracts logically falling into this category.
- If the transport organising authorities opt first for the type of procedure for signing contracts and if the distribution for 2003 between public service delegation and public contracts continues at the same level (85% of public service delegation, 15% of public contracts), we should see the number of net cost contracts increase in the next few years, since these contracts are the only ones that can be unambiguously defined as public service delegation contracts.

## Type of contract

### ■ Distribution by size of network in 2003



Management contracts mainly concern networks serving populations in excess of 50,000. The share of these contracts exceeds 20% in networks serving populations of 50 to 100,000.

The share of gross cost contracts varies from 20 to 30% according to the size of the network. It reaches 40% in the category of networks serving populations lower than 20,000.

The share of net cost contracts is still higher than 50%. It exceeds 60% for networks serving populations from 20 to 50,000 and those of more than 200,000.

In the first case, it can be assumed that the (rather small) transport organising authorities delegate much of the management of their service, as they lack their own resources. Transport is just one of many things to be managed – thus only limited resources can be allocated to it.

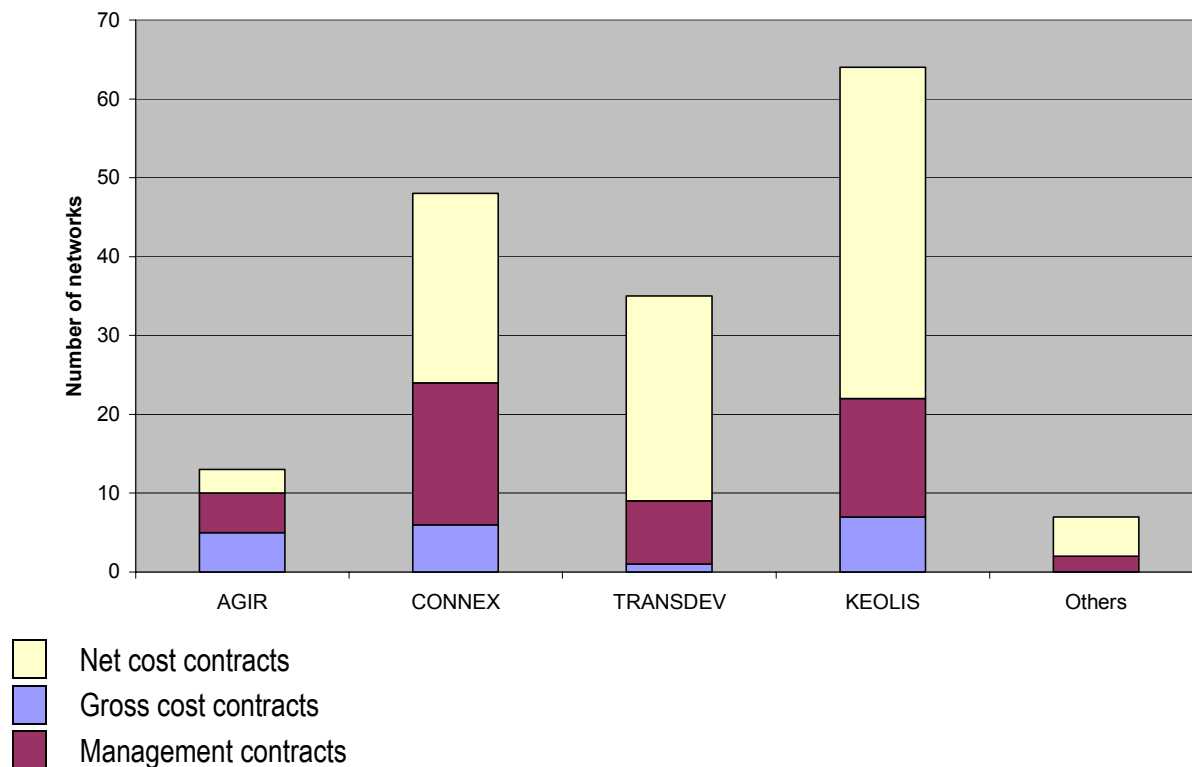
In the second case, it can be assumed that the (rather big) transport organising authorities delegate much of the management of their service to their operator, given the complexity of the management in question. Public transport in large networks is (with possibly transport with right of way) is complicated and specialised professionals are capable of taking responsibility for the entire operation.

One may also ask whether the choice of type of contract is not imposed by the choice of type of procedure (cf. above).



## Type of contract

### ■ Distribution by company in 2003



Most of the networks operated by Keolis are subject to management by net cost contracts (42 out of 64).

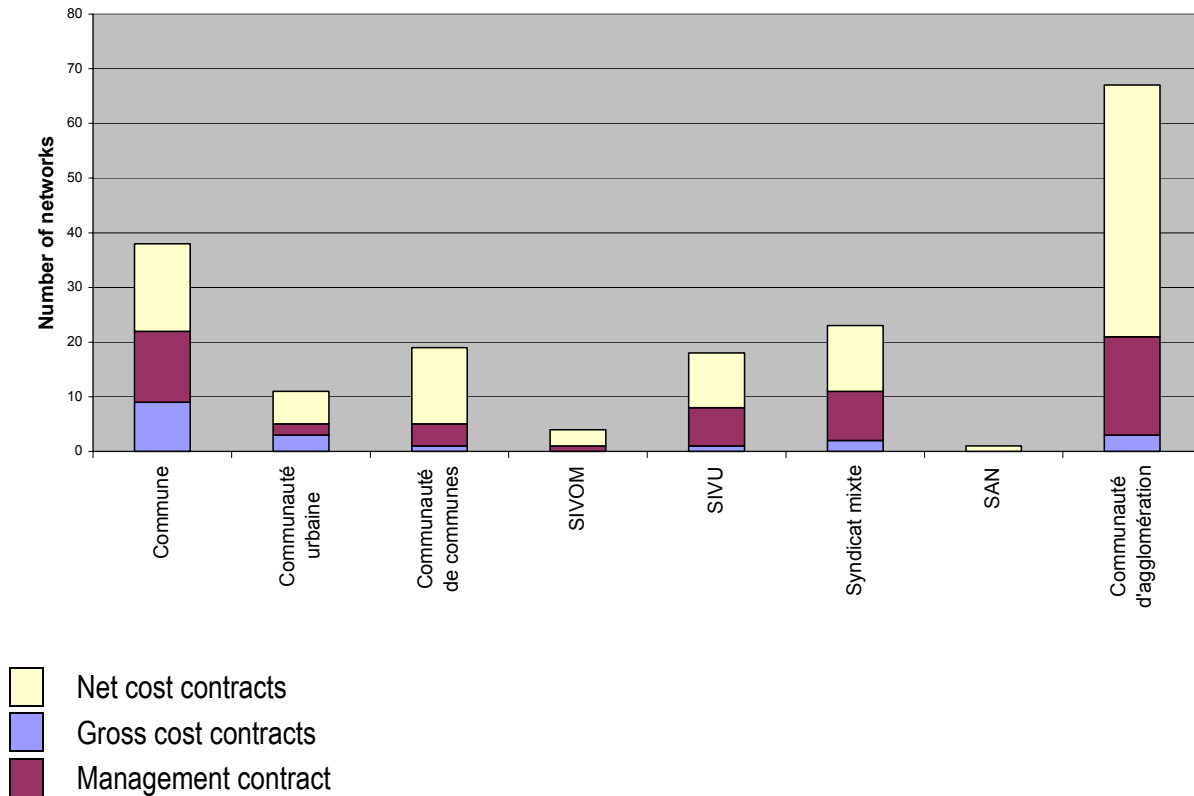
In the 48 networks operated by Connex, the share of gross cost contracts (18, for 24 net cost contracts) is relatively higher. Only a small proportion of the contracts are management contracts (6).

Only one of the 35 networks operated by Transdev is operated through a management contract. In this case the management contract approach (the organising authority maintains a firm hold over the management of the service), is probably replaced by recourse to semi-public companies. While relying heavily on delegation (26 networks managed under net cost contracts), the organising authority remains actively involved in managing the network since it is the majority shareholder of the semi-public company.

Most of the 13 networks of AGIR are operated on the basis of management contracts (5) or gross cost contracts (5), i.e. contracts in which the organising authority retains at least the commercial risk. Here reliance on delegation is low, which is consistent with what has been seen recently with several AGIR networks changing from delegated management to direct management.

## Type of contract

### ■ Distribution by type of organising authority in 2003



#### Glossary

*Commune* : Commune

*Communauté urbaine* : Greater urban authority

*Communauté de communes* : Inter-communal authority

*SIVOM* : multi-inter-local authority management board

*SIVU* : single inter-local authority management board

*Syndicat mixte* : Joint management board

*SAN* : New Town Management Board

*Communauté d'agglomération* : Urban authority

When *ad hoc* structures (single inter-local authority management board, joint management board) have been set up to operate urban public transport services, it appears that the use of net cost contracts predominates less than in the other cases.

For example, a great majority of inter-communal and urban authorities, for which transport is one competence among others (in the case of inter-communal authorities it is not obligatory), rely on this type of contract, showing that the less “desired” the competence, the greater the amount of delegation. The case of communal organising authorities is rather different and there is a relatively even balance between the different categories of contract.

## **Conclusion**

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The previous analyses show that delegated management, used in the majority of provincial urban networks in France in 2003, comprises a wide range of situations and is undergoing changes that are still in progress. These changes should be analysed more thoroughly and monitored: what option of delegation, what type of contract, what type of procedure for what project, for what public transport policy?

This analysis also shows that, although it would be hasty to speak of the return of “publicly owned companies”, the sphere of direct management in provincial urban networks in France is active and diversified.

Further to these initial analyses, it would be interesting to know what type of transport policies and projects are being implemented by French urban public transport companies? Do they differ from those implemented in networks that rely on delegated management? This question could be the subject of another analysis based on, for example, the technical and financial indicators present in the database.