

THE REFORM OF THE AUSTRIAN STATE POLICY ON LOCAL AND REGIONAL LAND PASSENGER TRANSPORT MARKET

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1. RECENT PROBLEMS OF AUSTRIA'S LOCAL AND REGIONAL PASSENGER TRANSPORT MARKET

1.1 General Situation

Austrian land passenger transport - limited in the following to public local and regional transport - is at present characterized by the following features:

- very marked dominance of State-owned enterprises offering services (the transport businesses of the cities and the Republic's large enterprises govern together over 80% of the market);
- high degree of State subsidization, not only with regard to the effective fares for passengers, but also for the actual production of services - both different, parallelly applied and competing against each other, historically developed forms of organization; both also for the market share of the private businesses offering services;
- nonetheless, all the State service enterprises show consistently and over decades negative results which have to be compensated for by different forms of deficit coverage by the relevant proprietors;
- generally poor utilization/oversupply in non-central areas - thus low overall productivity; the total amount received directly from the passengers covers only approx. 13% of the total expenditure (including the cost of the fixed infrastructures);
- high level of trade union organization and, based on this, a labour organization which greatly reduces efficiency, especially in the State-owned enterprises;
- strict market regulation by Central State licencing (norming effect on vocational access, access to the market and competition, essential details in production as well as the non-subsidized fare prices);
- marked dominance of Central State activity and, lacking competence, the governments at the intermediate level ("Federal Provinces") are practically completely inactive.

At present the Austrian Central Government is confronted with the need for the following actions:

- reclassification and quantitative limitation of all forms of subsidies for production and fare prices,

- putting a check on overproduction (reduction of supply or - preferably- an increase in utilization).
- adjustment of marketing regulations to conform with the intentions of the EU.
- economic re-organization and legal privatization of State-owned enterprises (i.e. the Central State and municipalities should retain ownership, but the enterprise be run as a statutory private business).

1.2 Some specific issues

Market Regulation

The regulating norms of the bus market in Austria is based on a law passed in 1958 which, as yet, has remained more or less unchanged. All of the following statements are valid, in the sense of this law, also for the rail market - including so-called light railways (trams, underground and local regional rail networks etc.) but not any of the irregular or non-local forms of passenger transport, such as company buses, coaches, paratransit, taxis etc., which belong to completely different trade classes and thus have to comply with other norms which, however, are not less strict.

Scheduled public transport services are subject to State-issued licences. To receive a licence an entrepreneur must make an application, in which he describes exactly the service he plans to offer (time-table, stops, vehicles, data concerning the enterprise etc.). This gives rise to a series of examinations. First of all the Central State licencing authorities examine the company's knowledge of the transport market, the company management, its financial basis and credit worthiness and, as far as the law is concerned, its integrity. Further to this, the safety regulations with regard to the vehicles and stops/stations are examined and, in the case of road transport, the streets will also be controlled to see how technically safe they are. At the same time a process is set into motion whereby protest from various sides are made possible; and this includes all traffic enterprises i.e. those offering rail or road transport operating within the vicinity of the proposed new service, the local and Federal Provincial governments of the region affected, and even the parafiscal authorities (Austrian "chambers"). The objections raised by all or any of these instances may result in the issue of a licence only under certain conditions: e.g. that it is forbidden to make stops on certain sections of the routes so that an already existing enterprise does not suffer losses; or it is required to offer, in addition to the route applied for, non-remunerated services in the public interest; or indeed the licence also may be refused.

The licence gives the owner merely the right to provide a specific service and to object to the issue of other licences (protection of business and limited spatial monopolization). A licence is valid for 15 years!

The licence, however, requires the acceptance of State-determined fares ("regulated tariff") including non-remunerated half-price fares for certain social groups (children under 15, pensioners, handicapped persons and suchlike). Further, it requires the presentation of certain business data and, especially, strict compliance with the approved time-table as well as all the above-mentioned requirements. Any kind of deviation from the above conditions will be strictly penalized - the final consequence being the withdrawal of the licence.

Such market regulation may have had its merits at a time when, after World War II, the economy had to be restored and there was less motorization than today. Certain forms of protection against detrimental competition seem justifiable even today unless, however, the not inconsiderable reduction of a service offered is the price to be paid (British experience with the deregulated bus industry).

Nonetheless, it is obvious that the present Austrian way of regulation can bring about only negative effects ranging from a lack of business flexibility, a lack of compatibility with new forms of passenger transport, to a lack of competition leading to high production costs.

The current official requirements have, on the other hand, also not managed to get the enterprises to form consistent connecting networks offering passengers manifold connections and short travel times.

Subsidization by the Central State

There are 4 most important forms of subsidization: (1) the almost gratis transport of pupils to and from school, (2) subsidization of rail fares, (3) the financing of regional production and marketing alliances of several transport enterprises, respectively, i.e. "transport alliances" ("Verkehrsverbünde"), as well as (4) taking over almost the complete costs of the fixed infrastructure (rails, stations, shunting and railway yards, sidings etc.) in rail transport by the Central State.

Fair subsidization for pupils ("Schülerfreifahrt"): In 1970, in addition to the licencing system, pupils' fares to and from school were subsidized; originally to 100% and then, since 1995, to approx. 90%. As this measure was administered by the Ministry of Family Affairs (not the Transport Ministry) and paid for out of funds external to the budget, this led to a new (politically induced) equilibrium within the Transport Ministry - (whose political clientele are to be found mainly in the transport enterprises and their staffs) when setting regulated fare prices; the basic tariffs went up considerably in order to redirect public money from the Family Funds to the enterprises (which are, it should be noted, predominantly owned and administered by the Transport Minister).

Fair subsidization for rail passengers ("ÖKO-Bonus"): As this practice gradually led to a decline in the other "normal" demand, the sale of tickets for the Federal Austrian Railways (ÖBB; and as a consequence also for the few and small so-called private railways - which are, nonetheless, owned for the most part by the Federal Provinces and cities) was subsidized so that rail passengers now pay only 15% of the fare. This is not the case for bus fares. Incidentally, this measure, too, did not manage to save the ÖBB, and therefore there are other subsidies of various kinds.

Transport alliances and their subsidization: From 1984 onwards, transport alliances have been established in order to equalize the prices of bus and rail fares as well as to induce, at last, the use of production synergies and the setting up of consistent transport networks. Within several transport regions, which in most cases coincide exactly with the territories of the Federal Provinces, the Central State and the respective Federal Province have created, by contract, a uniform system of fare prices (so-called joint tariff = "Gemeinschaftstarif") so that the tickets issued by all the various transport enterprises operating in that territory will be accepted by each other. The contract also provides that the responsible authorities fix fare prices; and this, indeed, at the low level of subsidized "Öko-Bonus" rail fares. The bus companies and the city

transport operators thus suffer losses, which have to be compensated for by the responsible authorities. In most cases these authorities have founded and control their own "alliance company" for planning, market management and other administrative purposes.

The joint turnover enforced through the joint tariff is shared between the transport enterprises in proportion to their individual former turnover and also adjusted in proportion to production changes (expressed as vehicle mileage or similar other measurements). Furthermore, the transport enterprises disclaim, by contract, diverse concessional rights against each other.

These criteria for dividing the turnover are one of the reasons why the proposed development of more efficient networks does not function satisfactorily. The main reason for this suboptimality of transport alliances lies, however, in the exclusion of two extensive partial markets, namely the subsidization of pupils' and rail-users' fares. The employment of public monies for these sectors reveals the minor significance of the transport alliances. The long-term average expenditure of the pupil-fare subsidy amounts to approx. ATS 4 milliard; for rail-fare subsidy a further ATS 4 milliard - but only ATS 1 milliard for the transport alliances. The extensive claims made on the effectiveness of the transport alliances can thus not be fulfilled.

Nevertheless, these transport alliances have achieved a fundamentally positive effect, inasmuch as the advantages of the arrangements of regional transport networks, including all of the different urban and regional means of transport, could be shown in the reduction in waiting and travel times, an increase in ticket sales, trips and passenger kilometres.

On the other hand, the almost perfect subsidization chaos completed with this third form of a general fair subsidy led - in combination with all the other forms of subsidization (infrastructure, deficits of State-owned transport enterprises, cross-subsidies between profitable urban energy suppliers and deficit urban transport services) - to the huge and still increasing public expenditure, which cannot be managed any longer.

2. REFORMING THE AUSTRIAN PASSENGER TRANSPORT MARKET

The Institute for Public Finance and Infrastructure Policy of the Vienna University of Technology (IFIP) has carried out research over some years in the field of transport, especially that of public passenger local and regional land transport. The content of a research assignment issued at the end of 1993 (and still in progress) by the Austrian Federal Ministry for Transport was originally limited to the Central State's activity to increase efficiency in the existing regional alliances for production and marketing which incorporate only a small share of the local and regional passenger land transport market. But this research project had soon to be extended, on account of compelling interdependencies, to include the following topics:

- rules for competition, optimal level of State intervention,
- points of application and level of State subsidies,
- other organization of the production of services and co-operation of different transport enterprises within a transport region,
- fixing effective fare prices for the passenger,

- optimal division of labour between the governments of different centrality (municipalities, Federal Provinces, Central Government).

The main features of this concept are:

2.1. Separation of accounts

The main cause of the known form of market failure in transport is to be found primarily in the particular and specific character of the fixed infrastructures (natural monopoly and further obstacles). This means that State intervention, especially with regard to road and rail services, is justifiable. In order to create increased competition, especially between various transport enterprises and in the promotion of a stronger market within areas with other production factors, it seems fundamentally sensible to separate these areas from the disposition of the input 'infrastructure', both in organization and in accounting. Furthermore, this is also in line with the intentions of the EU related to the future organization of that part of the market designated "non-urban railway transport". However, there are at least 3 concepts for separate accounts in the above sense, and these are :

- a) 'infrastructure' versus 'production and marketing'
- b) 'erection and acquisition' versus 'operation'
- c) 'facility availability' versus 'variable expenditure'

In the case of Austria's largest railway enterprise, the Austrian Federal Railways' (ÖBB), two business areas were separated according to concept (a); and the second largest transport enterprise, the Vienna Transport Utilities (Wiener Verkehrsbetriebe), is separated according to concept (b). The IFIP has not (yet) concerned itself with the various consequences of these separation concepts and the final consequences for a reorganization of this market, or the State's activity in transport, respectively.

For the following reform contents it is, however, a provision that one of these separation concepts should be realized in a consistent way - that thereafter the transport enterprises will thus have to account only for the "non-primary State share" of the total production costs in their profit and loss accounts.

2.2. Re-arrangement of the existing regional transport alliances

- utilization of marketing synergies from overlapping enterprises in the network: maintenance of a uniform system of marketing organization and pricing of fares ("join tariff") but, however,
- no State regulation or integrated subsidization of fare prices: elimination of the previously State-determined pricing as well as the abolition of the greater part of the previous fare subsidies.

The joint pricing and marketing, which the setting up of consistent transport networks strongly favours, should thus be retained - or better still, newly developed - solely on the contractual basis of self-commitment on the part of the transport enterprises (which, it will be shown later, need an incentive), but without any further State intervention, especially without subsidies and without public control.

- market-oriented pricing: setting up of a private company which, with the joint pricing of fares, will be assigned to act exclusively according to the criteria of the market; which is, for the greater part, in the possession of the participating transport enterprises and other private hands, and has to cover *their* distribution costs by *their* share of the proceeds to be obtained, and thus aim at a profit. This should secure higher turnover proceeds by a better consideration and a maximal utilization of the willingness of passengers to pay. This means a completely new definition of the traditional "alliance-company", which has been founded by the respective responsible *governments* to administer their social and economic ambitions within the transport region. The "*new alliance company*" will provide the *transport enterprises* with marketing-, pricing- and common management-services; for that it will be paid in the form of a certain share of the total turnover.
- subsequent price correction: State institutions - and also potential private interest groups - are given the possibility to effect lower fare prices for certain respective, clearly defined groups of passengers, inasmuch as they pay the stated market prices and issue, according to their own discretion, tickets and travelcards for a smaller sum to their social or business "clientele". The State institutions, especially the Central State, are thus recommended, in future, to undertake such price corrections only extremely sparingly.

In order to eliminate the influence of public subsidies on price setting close to the market these public compensations should be negotiated by using so-called "generation factors".

- primacy of covering expenditure by turnover proceeds: the joint turnover proceeds obtained from passengers (or from the remaining price subsidizers in accordance with the form above) will be divided among the operating enterprises according to proportion, which can be negotiated at any time according to very sophisticated rules that had to be found especially for this purpose (and would be worth an extra paper). The production costs of these enterprises - with the exception of the non-calculated costs as a result of the separation of accounts principle (cf chapt. 2.1.) - are, in the first instance, to be covered exclusively by these proceed shares, as well as by possible proceeds from their individual turnovers (cf chapt. 2.3.). This ought to encourage stronger demand-oriented behaviour on the part of the transport enterprises, especially a reduction of the present oversupply.
- utilization of production synergies from overlapping enterprises in the network: as a second but not less important effect, the distribution of proceeds described above should reduce the "prisoner's dilemma" resulting from total competition between transport operators (e.g. greater total demand combined with performances matched to one another, yet higher individual proceeds in the case of non-agreement; "cream-skimming"; "passenger-piracy"), and facilitate the synergies made through co-operation by mutual compensation of negative externalities.

The rules for dividing proceeds will have to be fixed by a contract between all participating transport enterprises. This contract can - in conjunction with the new marketing organisation

through the alliance company and the "net principle" (described below). he considered the heart of the reform.

- subsequent service correction: Services which cannot be performed any longer under the previously outlined circumstances of the transport enterprise are to be reported in advance to named publically qualified instances. In this way, governments on the lower (local) and intermediate levels, and also other transport operators or other privately interested groups, can each respectively judge, in individual cases, whether - and how - they wish the further production of such a supply, the costs of which are not covered by turnover proceeds, to be on political or commercial grounds. In the case of such a "secondary demand" an order for the required supply can then be made.

For this purpose two different contractual solutions are available - (1) the "gross principle" ("Bruttoprinzip") according to which the contractor pays the producer the complete costs (with the exception of those to be excluded by separate infrastructure-accounting, cf. chapt. 2.1.), receives the turnover proceeds from this supply and bears the risk of low demand; and (2) the "net principle" ("Nettoprinzip") by which the contractor pays the producer only a contribution to cover costs, but the latter continues to receive the turnover proceeds, combined with bearing the risk. In the proposed new system, orders can be made according to both principles. Net orders (2), however, are preferred because of certain mechanisms (reason: the producer remains dependent on the turnover proceeds and this exerts a positive influence on his conduct in several areas of activity - planning of supply, co-operation with other enterprises, supply quality and similar aspects specific to the enterprise); only in certain exceptional circumstances will the gross principle be more attractive for the contractor.

The contractor principle (tendering) is valid as a whole only for the supply parts which are not - or no longer - profitably produced according to the stated conditions, and which are required and paid for by the State institutions or private interest groups.

- reduction of costs by means of competition in the contractor sector: the current contractor is free to find whichever producer demands the lowest total price (gross principle) or the least contribution (net principle), respectively - and this requires an adjustment of the present Austrian marketing norms (see chapt. 2.3).
- contractor promotion by the Central State: the Department of Transport of the Central State (Federal Ministry of Transport) *will not appear as a contractor*, but leave this form of market correction, including its planning, to the de-central government levels and to private groups. The hitherto deducted means from subsidies of another kind will, however, be used to influence the decisions of the contractor according to the transport policy concepts of the Central Government: each and every service contract will be promoted by the Central State taking over a certain share of the expenditure. This share can be varied according to certain criteria as follows:
 - (a) the kind of contractor (e.g. private contractors will be more strongly promoted than State contractors)
 - (b) the kind, duration or extent of the contract (e.g. net or gross principle)
 - (c) the character of the territory for which the supply is to be ordered for (e.g. preferred basic provision in peripheral areas)

(d) other criteria.

The Central State is thus presented with an instrument to carry out general transport policy without, however, having to intervene in actual planning decisions. Further, through the rules granting this kind of subsidy, competition will develop between the Federal Provinces for a share. This has the object of encouraging the hitherto only slightly active governments on the intermediate level to a greater investment of their own means and to take over the main responsibility for the regional land transport (valid similarly for smaller communities; large towns have already been active up to now).

- preference for the transport alliances: the financing of the contractor promotion (Central State) and the making of orders (intermediate and lower government levels) have a legally limited ceiling and are, furthermore, regulated in a way that the money can be invested only within the framework of the transport alliances (condition: all ordered services must be able to be used by passengers with transport alliance issued tickets or travelcards).

All of the other settlements outlined above will, on the other hand, be agreed upon on a purely legal private basis between the transport enterprises, or between the transport enterprises and governments, respectively. This means that in a region also transport enterprises can be managed which do not participate in the transport alliance and want to compete with the latter (economically unlikely, but necessary according to constitutional law).

- special regulations and long term periods for conversion of the system: in order to avoid too great drops in demand as a result of sudden and strong increases in fares with simultaneously excessive reduction in supply, as well as to avoid drastic losses in productivity and that costs drop because of facilities which cannot be dismantled, special temporary arrangements (e.g. only small, annual steps in the withdrawal of subsidies, building up of the contractor sector and inclusion of what was previously State activity external to the alliance) and a transitory phase of at least 6 to a maximum of 11 years (dependent on factors external to the system) must be installed.

2.3. Adjustment of the hitherto existing Central State market regulation norms

- abolition of price regulation: the hitherto general fixing of fare prices (independent of all kinds of previous price subsidization) by the Federal Ministry of Transport will be completely abolished. All transport enterprises may, in future, determine the fare prices and their foundation in a completely free way as far as these prices are used for actual services for which the transport enterprises are themselves responsible (costs of which are covered by turnover proceeds or ordered according to the net principle).

Supplement to chapt. 2.2.: This applies even for enterprises which participate in the transport alliance. These are only obliged (by contract) to accept the tickets and travelcards issued by the transport alliance and to control the division of the sum of the turnover proceeds by mutual consent. Thus a reduction of the total turnover proceeds through the individual proceeds of any one transport enterprise will damage neither the other participating enterprises nor the contractors. The threat of such a loss in proceeds in the "new alliance company" is indeed to be desired in order to stimulate the competition of the individual transport enterprises for proceeds to be maximized by appropriate planning of services. The thus induced competi-

tion between the alliance company and the individual producers to gain the same passengers is, furthermore, distorted in favour of the alliance company through the advantages of the alliance-tariff (integrated fare systems, advantage of advance information, ease etc.).

- easing up of market protection: at present, the need for a licence to be issued and the restrictive granting of such by the administration results in the de-facto monopolization of a transport enterprise in its efforts to manage a defined territory (motorized lines and the surrounding "transport area"; similarly so for rail transport), and this should be reduced without, however, completely removing protection of the enterprise against the negatively created external effects (mainly reduction in proceeds by meeting the same demands) caused by other enterprises. This easing up should be achieved by a more liberal granting of licences as well as by the shortening of the regulation period of a licence from previously 15 years to a maximum of 8 years.
- introduction of the tendering principle: in the case of services for which the costs are *not covered by turnover proceeds*, an enterprise is to be selected from a number of other applicants in order to be protected. This selection should be dependent on the amount of effective contributions (net principle) required from public resources (conversion of the intention of the EG-VO 1891/93 to create non-remunerated public services at the least cost for the general public). Planning and tendering of such services is subject to civil law while operation will be carried out by local authorities or Federal Provincial Governments or even by private interest groups. However, the granting of a licence is in accordance with sovereign right and administered by the Central Government.
- introduction of a levy to protect profitable services ("licence by auction"): A licence should be granted to that enterprise which provides services the costs of which are covered by the turnover proceeds or, indeed, even show a profit - *and* which is prepared, among all other possible applicants, to *pay the highest levy to the Central State* (in the case of non-profitable services being offered, the above-mentioned tendering principle prevents such an auction).

In return, the Central State should no longer have the possibility to impose on the licensee concrete additional non-remunerated public services which the licensee had not himself planned. Safety standards and such like remain untouched by this abolition of public intervention.

The main effect of this measure will be to eliminate the problem of "cream skimming" and the super-profits made possible through the monopolizing issue of State guaranteed licences. The competing transport enterprises will be kept working at break-even point. The money thus gained will be utilized within the framework of the contractor promotion by the Central State to support non-remunerated services.

2.4. Changes in the hitherto existing fares subsidies not included under 2.2.:

- cancellation of the fare-subsidy called "Öko-Bonus" (see chapt. 1.2): change of hitherto existing means for the ordering of local and regional passenger services or for the promotion of contractors (cf chapt. 2.2.), respectively. To reduce further losses in productivity in rail transport, these means should, however, be confined to orders needed for the railway or its promotion, and this over a transitory period which may be up to 30 years. Then, however, re-

duced only partially and step by step (money no longer bound to particular application can then also be used for bus orders).

The rail tariffs, which are thus no longer subsidized, do not present a problem for the consumer, as these can be substituted stepwise by a regional alliance-tariff conform with the market. Further, for economic reasons, the railway enterprises cannot demand at short notice excessive price increases, also in their own rail tariffs.

- reform of gratis transport for pupils ("Schülerfreifahrt"): The present practice of the Central State to pay the fare fixed by its Transport Department from its Family Department is for social reasons (financial compensation for Austrian citizens with children to bring up) and will be put and end to from two sides: (1) price regulation will be abolished (cf chapt. 2.3.) and (2) the Family Department no longer concludes contracts with the transport enterprises, but instead receives two options - either (2a) the pupils or parents, respectively, will be able to reclaim the cost of public transport actually used (proof required; this option is called "Subjektförderung", or: "direct consumer-promotion") or, (2b) in the transport region concerned, to conclude an agreement with the new alliance company to make a 'subsequent price correction' (cf chapt. 2.2) for the relevant clientele. Of the two options it is also required to choose always that one which requires the least public expenditure. As the option (2a) will involve an increase in bureaucratic administration, a decision against the option (2b) is likely only if the transport enterprise is stimulated by too high alliance fares into making its own price offers which are considerably less than the bureaucracy costs. This competition for proceeds between transport enterprises and alliance companies (cf chapt. 2.3.) tend to reduce not only the danger that greatly excessive prices will be demanded by the Federal Budget, but also that the transport enterprises receive too low production prices.

In the transitory phase, the alliance tariff demanded from the Family Department for gratis journeys to school will continue to be centrally fixed by the Transport Department until the full price required from other passengers - at present too low - has reached a certain higher level. This is to prevent a sudden loss of revenue, which would lead to a greater fallout of profitable services than could be compensated for by ordering services.

2.5. Settlement of problems in transport enterprises owned by the State

The chronically poor situation concerning the Austrian State-owned transport enterprises, i.e. the Federal Austrian Railway (ÖBB) offering both rail and bus services, and the bus service offered by "Post und Telekom Austria" - both owned by the Central State - as well as the transport operators owned by urban authorities (bus and light rail transport) is not exclusively to be attributed to high production costs: as a State owner is responsible for operating losses, these enterprises had been compelled to supply non-remunerated public services for which no financial compensation is made. As such payments become compulsory when services are ordered according to the reforms outlined here, it will become possible during the reform conversion to increase the success of these enterprises. Being thus exposed to competition with private enterprises, the inefficient production must also be put an end to in the course of the reform. This is the result of (a) politically induced overstocking of equipment (infrastructure investments and acquisition in order to boost the economy and to secure employment), (b) inefficient organization of labour (e.g. plan quota times for repairs, non-transferment even in nearby areas, etc.) as well as (c) especially high overhead

costs (politically induced over-occupation of management functions, special services not concerned with production, the burden of special pensions etc.). This can be overcome only on a long-term basis and this is one reason why a long transition period is suggested. Although the reform does not provide immediate measures for the re-organization of these enterprises, the political will to carry through this reform automatically means the Government will be forced make their enterprises "privatizable" with all the consequences (but initially without the actual intention of changing ownership). As a first step the Central State has already begun with this by converting the Austrian Federal Railways and the "Austrian Post und Telekom" from the sections of the Federal Ministry of Transport into companies in their own right. In the long run all the governments of different centrality will also have to take such and further steps.

