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Annual Report to the Parliament

Address by President
Andrea Camanzi

Senate of the Republic
July 15, 2015

Distinguished Guests, Ladies and Gentlemen,

also on behalf of my fellow members of the Board, I wish to thank the President of the Republic for honoring us with an audience and the President of the Senate for hosting us today. I hereby submit to the Parliament the second annual Report of the Transport Regulation Authority.

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Last year's Report to the Parliament provided an account of the start-up of the first regulatory activities stating timing and objectives: a very challenging commitment given that the Authority had been operating for just six months.

**The new economic
regulatory framework**

We have achieved the targets we had set ourselves and even exceeded them, developing regulatory measures for railways, local public transport, airports and motorways to protect passengers' rights. Most recently, we have submitted to the Government and the Parliament proposals on non-scheduled road transport passenger services concerning taxi, car-and-driver hire (C&DH) and technological platforms for new mobility services.

We have worked to make the regulation of the different transport modes consistent with each other so as to facilitate their integration and promote the development of new intelligent transport systems (ITS), which are increasingly requested by the public.

We have worked, and will continue to do so, in the belief that regulation should anticipate the problems and structural changes of markets, on both the supply and the demand sides. The transport system needs to be centred around the content, not the container, the person and its multimodal mobility needs, the consignment and the supply chain managing the flows of goods and services and their timing. We have worked mindful that this is the way to increase the productivity of our economy and create value and growth.

Infrastructure, operational management systems and access mechanisms must serve the public interest and not impose constraints on new demands for personalized and integrated services. New technologies are bringing about changes that are testing the innovation capacity of transport systems.

The momentum must be kept.

We have also devoted much energy to supervise the implementation of our decisions.

The Authority's regulatory activities have changed the framework of transport economic regulation. The resulting new model is univocally oriented to pursuing management production efficiency, cost containment for users, fair and non-discriminatory access to infrastructure - these objectives being explicitly entrusted to the Authority under the provisions establishing it.

This model is both consistent with the European standards and new, in Italy and in the transport sector, for the impartiality and independence of its actor and the application of a participatory decision-making process.

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The full Report describes the regulatory activities performed and the measures adopted in some detail. I will therefore expand only on some of the Authority's choices.

In the railway sector two decisions have been adopted at the end of 2014: one relating to fair and non-discriminatory access to rail infrastructure and the other including guidelines and requirements on the network statement drafted by the infrastructure manager. Both decisions, including as a whole fifty measures, affected the agreements between the infrastructure manager and the railway undertakings as regards the use of infrastructure, criteria and procedures for the network capacity management, access to services and ancillary facilities, including space in stations (advertising space, information desks and ticket offices) and shunting services for freight trains, allocation of costs for assistance to people with reduced mobility, and – last but not least - criteria for setting charges on high-speed lines and node crossing.

Railway sector

*Fair and non- discriminatory
access to the network and the
Network Statement*

Last March 12, 2015, having assessed the non-implementation of some measures contained in the decisions mentioned above, the Authority started two enforcement proceedings. In this respect, for the purpose of removing the Authority's objections, the infrastructure manager proposed some remedies which have been subjected to a market test still in progress. This is a transparent and innovative procedure, never applied before in the Italian transport sector.

*Enforcement proceedings,
remedies and market test*

The criteria for setting access charges

Moreover, when taking the first steps aiming at the redetermination of high-speed network access charges by the infrastructure manager, the Authority has also initiated a new proceeding concerning the set of criteria for setting access charges and fees for services as a whole. This anticipates the application of the Recast Directive both as for the general approach and the application of economic principles such as, in particular, that of the costs directly incurred for the use of the network.

Many are the issues in this field. I shall mention three of particular importance in the framework of the privatisation process announced by the Government:

- the introduction of a five-year "regulatory lag", to the benefit of the industrial strategy of infrastructure manager and railway undertakings and the investment decisions of shareholders and financial markets. *Inter alia*, the system is already in place for motorways and airports;
- the introduction of a more articulated modulation of charges by time slots, segments (goods or passengers), type of service (PSO or Open Access) and speed classes in place compared to the current ones. The new tariff modulation allows to adopt more challenging business plans and marketing strategies consistent with the emerging demand for transport by passengers and undertakings;
- the incentive for the infrastructure manager to maximize the use of the existing network capacity, also for the purpose of containing costs in the long run.

The resulting new regulatory framework enables the manager - that is responsible for determining the amount of the charges according to the criteria set by the Authority – now, more than ever before, to maximize the use of the network, regardless of the railway undertaking requiring such use. It rests with the Government to benefit from the new regulatory framework in the context of the privatisation process and its possible articulation, including over time, in line with the model applied in other sectors, such as energy.

As for the airport sector, the models for setting airport charges adopted by the Authority, which are based on the negotiation between infrastructure managers and air carriers, have passed the "baptism of fire".

Airport sector

Società Aeroporto Toscano "Galileo Galilei" SpA (SAT), managing Pisa airport, took 104 days to start and conclude, in agreement with the airport manager and under the Authority's supervision, the updating of the existing charging system, until then standing at the 2009 "*Contratto di programma*".

Airports of Pisa and Florence

For the same updating process, *ADF SpA*, the infrastructure manager of Florence Airport, whose charging system dated back to 2000 with recovery of inflation since 2007, took 120 days, including a settlement procedure before the Authority concerning the service levels to ensure to carriers (*Service Level Agreement*).

Both the airport managers mentioned above shall have to comply with the Authority's prescriptions. In addition, the new charges shall apply, subject to annual renewals, for the regulatory lag that, in the first phase of implementation, has been set in four years.

Not least, the airport charging models provided a framework conducive to investment plans in the airport sector, as proved by the recent establishment of *Società Toscana Aeroporti SpA*, set up following the merger by incorporation of *ADF SpA* into *SAT*. This could serve as an example for the development of other airport systems.

To date also the airports of Bologna and Olbia were authorized by the Authority to start procedures for updating their charging systems.

Airports of Bologna and Olbia

In the area of local public transport and mobility services, the Authority has taken six measures, two of which have been completed while four are in progress. These measures as a whole reflect the belief that regulation should provide complementary solutions to mobility demand while complying with the specific nature of the markets involved. The latter are separate as they meet different demands for services: scheduled, non-scheduled, collective and individual, whether or not subject to public service obligations. These measures have, among others, provided, and still provide, an opportunity for intense and direct cooperation between the Authority and regional and local institutions, including their associations and coordinating bodies.

Local public transport and non-scheduled mobility services

The Authority's proposals to the Government and the Parliament concerning the economic regulatory features of non-scheduled road transport passenger services (taxi, C&DH and technology mobility services)

The Authority's proposals concerning taxi, C&DH and technology mobility services

aim at bringing to light new markets and the related regulatory issues so that the demand for and supply of services meet in a transparent manner and in compliance with the rules applying to economic business activities. The proposals - while recognizing that taxis provide “public services” - include specific measures, such as: the establishment of a register of drivers; the classification of the services provided by non-professional drivers as occasional employment; the provision of a registration requirement for service platforms; the identification of territorial reference areas in the regions for all non-scheduled road transport passenger services; the possible modulation of charges; a number of amendments to existing Law No 21/1992 concerning taxi and C&DH services.

We hope that the necessary reforms will be adopted as soon as possible assuming that such policy problems cannot be solved in court.

Other actions by the Authority relate to scheduled services.

In particular, on last June 17, twenty-one measures were adopted on the awarding of local public transport services, including the criteria for determining the take-over value borne by the new entrant, those relating to the transfer of personnel and the provision of capital goods, the method for updating charging systems with the introduction of the price-cap, as well as the measures to promote the efficiency of the provider and prevent conflict of interests in the contracting authorities. The consultation and participatory procedure of the Authority has been applied in this case too; furthermore, the Authority adopted its decisions taking into account the opinions delivered by ANAC (the National Anti-Corruption Authority) and AGCM (the Italian Competition Authority) as part of the protocol agreements in force with them.

Measures concerning tendering procedures and direct awarding of contracts

In the same context, the Authority announced the forthcoming adoption of proposals to the Government and the Parliament concerning local public transport issues not covered by the above-mentioned measures. We have also started a procedure for defining public service areas and their most efficient financing, the results of which shall be relevant to the contestability and size of lots submitted to tender by the competent regional and local authorities. Finally, we initiated a procedure concerning the minimum quality levels of services subject to public service obligations and another concerning maritime transport and cabotage services.

Other measures concerning local public transport and quality of services subject to PSOs

In the motorway sector, the Authority adopted a regulatory measure of general scope and another relating to a specific case.

Motorway sector

The latter concerns the guidelines for the draft concession arrangement for the A22 Brennero motorway.

A22 – The Brennero motorway

On the other hand, the measure of general scope relates to the definition of the optimal management areas of motorway sections, which is the subject of a procedure that will be completed in 2015. In this respect, the rules establishing the Authority require that the optimal management areas of motorways must be defined, *inter alia*, with the aim of promoting competition by comparison, in line with the best international economic regulatory practice. For this purpose, the Authority has adopted a parametric benchmarking system to check the efficiency of individual concessionaires by comparison with their peers and establish regulatory pricing measures and the optimal management areas (stochastic frontier analysis). The method innovates the existing one used for motorway regulation, based on the economic and financial data of each undertaking in the absence of a comparative performance assessment. The first empirical evidence gathered from Italian concessionaires for the period 2005-2014 shows the existence of economies of scale, albeit not very pronounced. It follows that, from the point of view of overall productivity, the present system could, under certain conditions, benefit from business aggregations.

Optimal management areas

As for users' and passengers' rights, after the regulation on public passenger transport services by rail, the Authority adopted provisions implementing the European and national laws concerning the rights of passengers in bus and coach transport. The mandate to the Authority for maritime and inland waterway transport is being finalized at the time of writing.

Users' and passengers' rights

On the whole we received and replied to more than 300 second-instance complaints and other reports concerning all modes of transport, which are just the tip of the iceberg of passengers' dissatisfaction. The most common complaints concern cancellation of services, lack of information which also results in missing intermodal connections, inadequacy of stations and trains to the needs of people with reduced mobility, difficulties in obtaining refunds, non-recognition of compensation.

Complaints and reports

The issue of the protection of passengers' rights overlaps with that concerning the quality of services and the structure of supply. Just in these last few weeks, the passengers of the Rome-Naples and Turin-Milan rail lines requested to enjoy an offer of competitive services adequate to meet their mobility needs. Both cases are being examined by the Authority. The high-speed market must find, as a whole, the way to meet any demand for services, provided it is economically sustainable. In the negative, it will be necessary to investigate why it is not so, including whether the capacity of the supply side of the market is adequate.

Turin-Milan and Naples-Rome rail lines

Aligning its regulatory choices with European transport policies is a strategic lever of the Authority. It participates in the activities of the European Regulators' working groups for railways, airports and passengers' rights as well as, at the multilateral level, rail corridors on a regular basis. The Authority has also participated in the activities of the OECD Independent Regulators Network and is actively contributing to the initiatives of IRG-Rail grouping together independent European Regulators in the railway sector.

Activities at the European and international levels

In this framework, it is appropriate to mention the recent decision of the British Government to entrust the *Office of Rail Regulation* also with competence in the area of strategic roads and motorways, as well as the French Bill, that is in the final stages of approval, to extend the competence of the *Autorité de Régulation des Activités Ferroviaires* to the road and bus transport sector. These developments clearly indicate that, also in other countries, the competition between different mobility platforms confronts the regulator with issues of consistency and point to an awareness that being entrusted with competence in several areas is a guarantee of independence and leveling up of the related regulatory models to the most advanced standards.

Not least, the Authority has set up an Advisory Board consisting of nine distinguished members who - outside the operation of the Authority and without compensation - provide the Board of the Authority with available doctrinal and scientific expertise in the economic regulation of transport. The first report of the Board will be presented and discussed in a public conference to be held in Turin on the occasion of the second anniversary of the Authority's establishment.

Advisory board

We have worked in an economic environment that remains difficult. Only recently, also thanks to the reform programme launched by the

Government and the change of direction of European policies, the Italian economy can be said to be out of recession. However, not everything can be explained by recession.

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The way out of the crisis cannot be one of exceptions to the rules. The temptation must be resisted to take a step back and lower the bar of the change, for instance by overwriting the existing overall structure of independent economic regulation with sector-specific provisions. Unfortunately, it has not always been so, as noted by the Authority on several occasions.

Vision and strategy

We believe this was the case of Decree-Law No. 133/2013, the so-called “Unlock-Italy”, which, among other things, revised powers and procedures concerning motorways and airports. Reforms produce effects conducive to economic growth if they promote the most efficient use of resources and infrastructure. Extensions of investment regimes regardless of increased efficiency divert resources away from the growth of economic productivity.

The “Unlock-Italy” Decree-Law

It is likewise the case of the transposition of the Recast Directive into the railway sector. In the course of a privatisation process, determining the charges for the use of the infrastructure only on the basis of relevant and efficient costs is of paramount importance to ensure a competitive market structure, the fair valuation of assets and the return on invested capital. Both the Parliament and the market have raised concerns and proposed remedies, which we hope will be taken into consideration.

The transposition of Recast Directive into the railway sector

In this regard, the current procedure concerning the overall setting of criteria for fixing the level of charges, as I mentioned earlier, provides the Authority with elements that enable it to appreciate the efficiency of the different degrees of separation between the railway undertakings and the infrastructure manager. On this issue, the Authority has been requested to report to the Parliament and the Government.

It is also necessary to prevent backward steps in European legislation.

In this regard, we witness no significant advancement on the political pillar of the Fourth Railway Package.

Further, the Authority is closely following the proposal for a European Regulation on market access to port services and financial transparency of ports. In this latter regard, the Authority reckons that port services charges, too, must meet economic efficiency criteria and that the provision requiring the establishment by Member States of independent national supervisory bodies must be maintained. Under these conditions, the Commission's proposal would be in line with the institutional framework provided for in the decree establishing the Authority.

***The European Regulation
on market access to port
services and financial
transparency of ports***

In the Authority's view, it is necessary to encourage economies of scale, technological innovation and development of competitive markets that reward risk appetite better than rent-defending. In addition, the provision of services on commercial terms and in competition should be promoted. This fosters market growth and the increase of the value of the operating undertakings and assets employed. It is likewise necessary to promote the efficiency of the services subject to public service obligations and the best use of the infrastructure capacity.

Public intervention remains inherent in the transport sector. The existence of an independent regulator does not hinder the investment decisions, the definition of public service obligations and the development policies of the Parliament and the Government. Instead, it makes such decisions measurable and comparable with the cost of possible alternatives to the benefit of the quality and transparency of the decision-making process and in the interest of users and taxpayers.

Of course, no independent economic regulation model may validate the remuneration of oversized and socially unjustified investments. Nor may an independent regulator acknowledge rebalancing measures in favour of public service providers regardless of the relevance and efficiency of their cost structure.

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The Authority has sought efficiency and cost containment for itself too.

We have been set up under a spending review regime. For this reason we have consciously established a structure with very low fixed costs, we have not planned supplementary allowances, we have adopted a challenging and advanced performance management system under the responsibility

**The Authority's organizational
development**

of a completely independent evaluation unit and we are finalizing the adoption of a Code of Ethics and the designation of a Guarantor.

The Authority was "born lean", so we don't need to go on a diet. Our permanent workforce includes only 90 people: a number far below that of other regulatory Authorities.

Today the Authority's staff consists of 58 people, including the President and the two members of the Council, 45 of which are permanent employees.

We never had chauffeur-driven cars, nor do we pay any rent but only consumption related to the use of our workstations. We were born digital, dematerialized, all our data are on cloud and online. From day one facility management, information technology and security services are shared with public entities – the *Politecnico di Torino*, the Customs and Monopolies Agency and, in the first phase, the Italian Competition Authority - which host or have hosted us.

Our problem was, and still is, to quickly take a few pounds to reach a healthy weight.

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In conclusion, the present Report reflects only partly the fruitful dialogue and cooperation with many other institutions, starting with the competent Parliamentary committees, to whom I would like to express our special thanks.

The above-mentioned activities would not have been possible without the support of the *Politecnico di Torino*, the Customs and Monopolies Agency and the *Guardia di Finanza*.

I wish to thank the national, central and local authorities, with which we regularly work, as well as the Council of State, the Regional Administrative Court for Lazio, the Regional Administrative Court for Piedmont and the Attorney General's Office.

My sincere thanks go to my colleagues Barbara Marinali and Mario Valducci with whom I share the responsibility for steering the Authority's course of action.

Finally, I wish to thank – not as a formality, but with genuine gratitude - the Authority's staff that has been able to provide in their day-by-day activity the right amount of curiosity, imagination, determination and sense of responsibility.