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Annual Report to the Parliament

## **Address by President**

**Andrea Camanzi**

Chamber of Deputies

14 June 2016

Distinguished Guests, Ladies and Gentlemen,

I wish to thank the President of the Republic for letting us present this address before him and the President of the Chamber of Deputies for hosting us today. I hereby present to the Parliament the third annual Report of the Transport Regulation Authority.

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Speed, change and synergy are the words which have, respectively, characterized the three years since our establishment. In the first one, we focused on the swift layout of the acts preparatory to the Authority's entry into operation and on the commencement of our regulatory activities. In the second year, we have adopted the first measures of a general nature, especially aimed at ensuring a fair and non-discriminatory access to infrastructures. In the third year, we have consolidated and expanded the new regulatory framework. We believe the latter begins today to be in synergy with the business development models, the technological upgrading of infrastructures and the new demand for mobility.

**The time of regulation**

Let me give two examples for all, drawn from the high-speed rail sector, in which companies operate in competition.

Any person visiting a station in Rome, Milan or Turin will have noticed the increased accessibility of railway undertakings and availability of spaces for customers, as well as the new organisation of ticket vending machines, traditional counters and information desktops: this is the result of access regulatory measures intended for infrastructure managers which bring clear benefits to users.

The second example concerns holders of travel passes on high-speed sections: a number of travellers accounting for over seven thousand people on a monthly basis, which is quite significant and is still growing compared to previous years. The reduction in travel time between home and workplace provided by high speed networks has created a new demand for services which are not subject to public service obligations, with positive effects on the social structure of large neighbouring cities and on the people's quality of life.

While respecting the commercial nature of the service, the Authority has identified the minimum content of passengers' rights to prior information and of those concerning the actual use of travel passes. Based on these measures, travel pass holders will be facilitated in the management of their reservations and daily journeys and will be able to demand compensation and reimbursement in the event of delays and cancellations. This is only an initial, but tangible sign of change. The Authority will develop similar measures in other areas such as, for example, local public transport by land and sea and medium-long distance bus transport.

Just like the industrial cycle of transport, regulation has its time, too; harmonizing the two will produce medium-term benefits. The levers to be used to increase their synergy are technological innovation, development of new services and investments.

Since the very start of our activities we have worked in this belief.

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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 choices made by the Authority.

**The work done**

Compared to the previous two years, in addition to the issues related to access regulation, the Authority focused its attention on the rights of passengers and users - which the above-mentioned example refers to - and on the quality of services. In what follows I shall discuss them separately.

The Authority's competence in the field of users' and passengers' rights is divided into three segments:

**The minimum content of passengers' and users' rights**

- the first one is to assess users' complaints concerning the compliance of transport service operators with quality and charging levels;
- the second is to ensure the implementation and enforcement of the European rules on passengers' rights and protection thereof with the aim of harmonizing their levels. Legislative Decree No 129/2015 extended the Authority's competence already provided for in this area for the segments of rail and bus transport to the transport by sea and inland waterways;
- the third is to positively regulate the minimum content of the rights, including compensation, that users may claim from infrastructure managers and service providers.

All three segments are subject to specific activities and actions by the Authority.

Concerning the minimum content of passengers' rights, I refer to the measures intended for travel pass holders on the high speed sections mentioned above.

With reference to the other two issues concerning the protection of passengers' rights, I would in particular expand on the railway sector, in which the Authority's competence is more widely and longer established. In this regard I wish to highlight that, in respect of numerous investigations initiated on approximately four hundred complaints and reports received, only two proceedings were concluded with the imposition of sanctions; this is because almost all the issues raised were successfully solved with the remedies adopted by the undertakings during the proceedings as well as through an extensive use of the "reduced fine payment".

In addition to the exercise of the above competences, the Authority also initiated proceedings aimed at setting the minimum quality conditions of services subject to public service obligations in the areas of transport by rail and by sea. In line with the strategic choice announced by the Authority since its first Report to the Parliament, we intend to ensure the centrality of passengers and freight.

**Quality of services**

These are key competences concerning issues that, just like the demand for mobility, are dynamic in nature. Their proper exercise helps make the contents of passengers' rights certain and is functional to improving the effectiveness of *ex post* protection. It is necessary to continue to invest on these competences in order to improve the results already achieved.

*The effect of the Authority's action*

The reference to mobility, in particular to door-to-door mobility, evokes the digital challenge, which covers the entire transport system and produces value for users and businesses. Both Europe and our country are committed to meeting this challenge, as illustrated *inter alia* in the "2014 National Action Plan on Intelligent Transport Systems (ITS)" of the Ministry of Infrastructure and Transport and in this year's Economic and Financial Document. Both papers underline the strategic importance of the transport sector for the competitiveness and sustainability of the economic system; in particular, they highlight the role of ITS systems as an incentive for business development and a guarantee for increased safety and better use of infrastructures.

**Mobility and digital challenge**

Our vision continues to be consistent with the European view in the framework of the Digital Single Market, of which we endorse priorities and objectives, particularly with regard to innovation that may result from the desired use of integrated systems for ticket reservation and management among different operators and multiple transport modes. The interconnection and interoperability of these systems will help raise the quality of the services and make them more user-friendly for passengers ("through-ticketing"), on the one hand, and will increase the use of the capacity of existing infrastructures, on the other.

In 2015 the Authority adopted the first regulatory measures relating to notices and conventions concerning tenders and procedures for the direct award of local public transport services. The wide spectrum of questions posed by the contracting authorities in the ensuing exchanges with the Authority confirms the significance of this regulatory framework. The questions concerned different issues of economic regulation such as: compensations, the Economic-Financial Plan (EFP), takeover value, rolling stock and other capital goods, risk allocation between infrastructure manager and contracting authority, division of the geographical franchising areas into tender lots, to name but a few.

**Local public transport**

The Government project underlying the draft delegated legislation concerning local public services consolidates stances and model included in those measures. We wish this project be quickly approved by the legislature.

The Authority decided to launch a consultation on the methodology to define the "public service areas" in the field of local transport by land and by sea. Special attention is paid to keeping obligations and financial compensation for the provision of public services in line with what is necessary to achieve social goals which would not otherwise be attainable and to provide services which would not otherwise be cost-effective. Indeed, it should be avoided that the granting of special and exclusive rights prevents the development of the supply of alternative services under economically viable conditions.

*Public service areas*

The criteria underlying the methodology, which are common for the different transport modes, include the identification of potential demand, the cost estimate of an efficient operator and the alternative modes of the service provision. These criteria are applied on the basis of cost-benefit

analyses and taking into account the opportunities offered by technology, such as, for example, non-scheduled services replacing scheduled services in low-demand areas.

After providing initial indications on “Non-scheduled road transport passenger services: taxi, car-and-driver hire and technology mobility services” in 2015, the Authority continued its monitoring activities, with particular reference to taxi and car-and-driver hire services.

**Non-scheduled local public transport**

Within the same framework, requests for assistance were received from local authorities as to the conditions for organizing and operating the service. The Authority assessed favourably proposals providing for an increased number of licenses, the use of electric-powered vehicles and the adjustment of the service to the evolution of tourist flows, to that of the resident population and to the supply of non-scheduled local public transport. The Authority has also highlighted the benefits that could be derived from the application of flexible rates and greater freedom of organization and use of the service.

In any case, after one year from reporting on this issue, the adoption of legislative measures remains urgent in order to introduce the necessary reforms into the system of non-scheduled transport services.

The regulation of the railway sector was one of the Authority’s primary commitments since its entry into operation. Beginning in 2014, a number of measures has been adopted to ensure fair and non-discriminatory access to infrastructures and service facilities, including those in the stations.

**The railway sector**

These measures, different in scope and content, are contained in some one hundred prescriptions. To date, almost all of them have been implemented or have formed the object of commitments by railway undertakings which the Authority deemed acceptable, submitted to market test, approved and whose proper execution is currently being overseen. On the whole, they mark quite a considerable change in the economic regulation of the sector, achieved in a short time; this is also the result of the positive contribution by the undertakings and the fruitful cooperation with all institutions.

Let me expand on the criteria to be applied by the infrastructure manager for the determination of charges for access and use of the railway infrastructure, known as “access charge”, which is part of the above-mentioned economic regulatory measures. These measures are aimed at:

*The criteria for determining access charges*

- providing all stakeholders with evidence of the criteria to be applied by the infrastructure manager to determine the relevant and efficient costs, net of any public contribution for investment and maintenance; *Evidence-based regulation*
- ensuring that during the regulatory period the operator achieves the economic and financial balance and that railway undertakings pay a charge based on costs that incorporate progressive efficiency targets; *Economic and financial balance and efficient costs*
- introducing appropriate obligations for accounting separation and regulatory accounting rules in order to avoid the cross-subsidization of different services, in particular those of the so-called "Minimum Access Package" and "other ancillary and additional services"; *Accounting separation and regulatory accounting*
- defining - as in other areas within the Authority's remit subject to the economic regulation based on RAB approach – the criteria for the return on invested capital on the basis of the weighted average cost of capital (WACC); *Return on invested capital*
- defining, in line with European legislation ('Recast' Directive and Regulation No 2015/909), the criteria for the determination of charges so as to highlight the components relating to the coverage of costs directly associated with the use of the infrastructure compared with the components related to the remaining costs of the infrastructure manager, which are subject to specific *mark-ups*; *Direct costs and mark-ups*
- allowing the infrastructure manager to modulate the value of the charge applied to different market segments by time slots, type of transport (freight or passengers) and quality of the network service (e.g. high speed). *Flexibility and charge modulation*

In the first regulatory period, safeguards are also provided for the market segments which are most sensitive or in a stage of adjustment as well as reduced charges to encourage new use of the network (for example, freight transport on the high-speed/high-capacity network at night).

By adopting these measures, we believe we have created the conditions for the infrastructure manager to exercise its independence and implement the most appropriate strategy to optimize the use of the network capacity in line with modal shift objectives and other Government policies.

The verification of compliance of the proposal submitted by the infrastructure manager with the criteria established by the Authority is in progress; the final decision will be taken by next July, 1<sup>st</sup>.

A reflection on the rail sector would be incomplete without a reference to the rail corridors for freight transport, within which framework regulatory bodies like ART are entrusted with the task of ensuring, *inter alia*, non-discriminatory access conditions. In this regard, the Authority concluded cooperation agreements with its European partners for the four corridors crossing Italy, taking on the role of coordinator of the "Mediterranean" corridor which links Almeria to Budapest via Marseille and will be extended to Croatia as of next November.

It is worth underlining that, in the Authority's view, corridors play a strategic role in building up an integrated European system of freight transport and logistics. For this purpose, we are working together with our EU counterparts to improve the economic regulation of access to corridors.

In this respect the outcomes of the Authority's activities on shunting services in the rail freight transport, which could be defined as part of the "last-mile regulation", will be relevant. We believe these services should, in line with EU legislation, ensure as a priority the proper functioning of the service facility chain of freight transport, including the integration with port infrastructures.

*Last-mile regulation*

The proceedings concerning the review of airport charges according to the Models approved by the Authority in September 2014 were carried out on twelve managing bodies, one of which is the concessionaire of four airports. They concern airports with traffic volumes both over and below five millions passengers per year. In seven cases, proceedings were initiated and completed in ninety days on average and a minimum duration of seventy-seven days: we believe this period is adequate to ensure the realization of ambitious investment plans and development projects, including territorial development projects.

**Airport sector**

Based on the experience gained in the first two years of application, as anticipated in a number of occasions, the Authority is about to make the necessary adjustments to the models. This is also aimed at ensuring the connection and, where possible, the harmonization of the economic regulatory measures in the various regulated sectors to which it applies (railways, local public transport, airports, highways and ports).

In the port sector, against a background of lacking progress of the EU legislative framework concerning access to services, at national level and with reference to the governance structure of ports, delegated legislation

**Port sector**



on the "*Reorganization, rationalization and simplification of the rules concerning Port Authorities*" is currently being adopted.

In this context, and in view of the exercise of the powers already conferred upon the Authority for regulating access to port infrastructures, including those relating to access to service facilities provided for by the laws implementing the so-called "*Recast*" Directive, the Authority has undertaken an analysis of the main regulatory problems that characterize the sector, with particular reference to the freight logistics and the issues concerning the above-mentioned "last-mile regulation".

As for the motorway sector, as provided by its statutory law, the Authority has completed and submitted to consultation the benchmarking econometric model for the identification of optimal management areas in order to promote competition by comparison. In the consultation document, the optimal management area is defined as an interval (corresponding to lengths measured in kilometres) within which structural advantages and economies of scale are optimized for each concession. Some remarks made during the consultation are being examined with a view to adopting the final decision on this issue in the coming weeks.

**Motorway sector**

Further, on the same subject-matter, technical discussions are ongoing with the awarding authority concerning the procedures for updating and reviewing the economic and financial plans of concessions.

Last, but not least, in addition to the functions already attributed to the Authority, the new Public Procurement Code provides that the awarding authority may request the Transport Regulation Authority to deliver an opinion on the scheme of the agreements to be concluded.

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The idea underlying the Authority's establishment from its outset was that the consistent regulation of the different modes of transport involves gains in terms of efficiency and utility, allows to exploit technological innovation and reduces travel times for people and goods. These benefits are not confined to the regulated sector, but are passed on to the productivity of the economy as a whole through the use of the transport networks and services.

**Vision and strategy**

A similar idea is currently reproduced in other European countries, most recently through the establishment of the Portuguese "Authority for

Transport and Mobility" with the same competences as ART. This adds up to the French and English cases in which the rail regulators have acquired competences also in the road and motorway sectors.

Over the nearly three years since the Authority's establishment we have developed expertise and methodologies both for the regulation of access to infrastructures and services and for the definition of the content of passengers' rights.

By using the Authority's transport database currently under construction and by integrating the experience of other European countries and those arising from the spreading of the sharing economy, we intend to apply the acquired know-how more intensely and extensively. This will be made starting from the central and recurring components of economic regulation such as, in particular, the methods for calculating the return on invested capital: a value to which financial markets are quite sensitive in their allocation decisions.

We also intend to extend recourse to comparative performance evaluation, accounting separation and regulatory accounting obligations, and efficiency evaluation of the degree of separation between the infrastructure manager and the undertakings providing services, particularly in the case of vertically integrated groups.

To this set of competences and tools, as applied by the Authority in exercising its functions, may resort innovative public policies, such as those aiming at attributing a single responsibility for rail and road infrastructures (as is already the case in Portugal), listing the FSI group S.p.A. (or part of it) on the stock exchange by taking into account the new framework arising from the final approval of the Fourth Railway Package, reviewing the governance of local public transport companies and integrating the local with the regional public transport.

We firmly trust that regulation is not an obstacle to public policies, and rather makes choices measurable and transparent. This is our output legitimacy.

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A few hints on the Authority's development and resources.

**The Authority's resources  
and development**

The public competition for completing the Authority's permanent staff of ninety employees will be completed in the next days. The competition was

launched under the Framework Agreement with other independent authorities, as provided for by Decree Law No 90/2014. We also initiated the recruitment of staff under Law No 68/99 and the hiring of young trainees from Universities.

We hope that the delegation provided for by Law No. 124/2015 be exercised, in particular the provisions concerning the self-financing system of independent authorities. The exercise of this delegation is essential to overcome any invoked vagueness in the rules identifying the entities subject to the payment of the contribution to the Authority.

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The Report I am presenting today reflects only partially the fruitful dialogue and collaboration with many other institutions. First of all, I wish to express my gratitude to the competent parliamentary committees.

The activities I have described would not have been possible without the support of the *Politecnico di Torino* and the Customs Agency.

I wish to thank the national, central and local authorities with which the Authority usually cooperates and, in particular, the Prime Minister's Office, the Ministry of Infrastructure and Transport, the Ministry of Economy and Finance and the City of Turin.

In some cases, this cooperation has also been strengthened by means of specific agreements, thereby creating important synergies. I refer, in particular, to the Competition Authority, the National Anti-Corruption Authority and, most recently, the *Guardia di Finanza*.

I wish to thank the Council of State, the Regional Administrative Courts of Piedmont and Lazio and the State Attorney.

I would like to extend my thanks to the members of ART's Advisory Board, which presented its first report on the occasion of a seminar held in October 2015, as well as to the members of the Board of Auditors and of the Evaluation Committee. We are most grateful to Professor Sabino Cassese for having accepted to be the Authority's Guarantor of Ethics.

Within the Authority, also on behalf of my colleagues Barbara Marinali and Mario Valducci, I wish to thank the Secretary-General. I thank, in particular, my Head of Cabinet. Last but not least, and - spoken with the same depth of feeling as if I were able to address them individually - I wish to thank the Authority's staff for the continuity and quality of their commitment.