

**Annual Report to the Parliament
12 July 2017**

Summary

The Transport Regulation Authority, established in September 2013 and operating since January 2014, presented its fourth **Annual Report** to the Parliament (Chamber of Deputies) last July 12th.

The Authority has been established under art. 37 of decree-law no. 201 of 6 December 2011, converted, with amendments, into law no. 214 of 24 December 2011. Later provisions have supplemented its statutory rules, the most recent of which are included in:

- legislative decree no. 169 of 4 August 2016 which introduced an important provision connecting the responsibilities of the Transport Regulatory Authority with those of the newly established 'Port System Authorities', and
- art. 48 of decree-law no. 50 of 24 April 2017, converted with amendments into law no. 96 of 21 June 2017 which significantly supplemented the responsibilities already assigned to the Authority in the field of local public transport.

In accordance with the new provisions, the Authority's functions have been accurately listed in the Decision adopted by the Authority on 31 May 2017 (**Decision no. 75/2017**), as described at pages 27-35 of the Report.

Here below is a summary of the main passages of the **address** whereby President Camanzi illustrated the contents of the Report and the strategic outlook of the Authority to the Italian Parliament. They have been also presented to the President of the Italian Republic on the occasion of a meeting with the Authority's Board.

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The President's address opens with the report on the main changes taking place in the transport sector, highlighting, in particular, the urgency to address the **increasing mobility needs** with integrated services. At EU level, too, the focus on the "modal shift" to railways is integrated by recognizing the **centrality of mobility as a service in itself**, based on digitalisation, sharing and sustainability. The advantage given by the national legislator to the Authority when providing for **multimodal economic regulatory functions** will be best apparent in the forthcoming context in which the EU Commission dedicates 2018 to multimodality and the President of the Authority will take over the **chairmanship of IRG-Rail** whose statute is evolving towards multimodal competence in a growing number of cases.

There follows a description of the regulatory activities performed by the Authority which may be related to four "topics" or main "issues": 1) competition and equitable and non-discriminatory access to infrastructures; 2) public services and market contestability; 3) passenger rights' protection and 4) production efficiency.

1) With reference to the **issue of competition and equitable and non-discriminatory access to infrastructures**, starting from **railways**, the President's address retraces the decisions taken by the Authority to ensure the **sustainability** of transport services subject to public service obligations and the **competitiveness** of those offered under competition. Lately, the Authority has been checking that the innovative modes of high-speed rail services (such as use of "double trainsets", top speed increase, fast-track access) do not produce discriminatory effects on competing railway undertakings.

With reference to **port infrastructures**, the Authority has initiated, also on the basis of the complaints received from operators, a general regulatory proceeding to assess the existence of discriminatory conducts as reported by operators, as well as individual procedures. In this regard, the Authority trusts the legislator will enhance the Authority's responsibilities during the stage of implementation of **Regulation (EU) No. 2017/352**, in particular with respect to the setting of port **access charges**.

With reference to access to **airports**, the Authority continued to assess the **compliance with its models** adopted in 2014 and carried out their **mid-term review**: a special mention deserves the adjustment of **the remuneration of net capital invested by the airport managing body to market performance**.

As for **motorways**, in a practical case of award of a new concession, the Authority developed a **toll charging system** and produced the relevant **concession scheme** involving, in particular, the economic key features of the concession, such as duration, risk allocation to the concessionaire and requirements for the revision of the economic and financial plan. Further, the measures developed by the Authority objectively identify minimum efficiency standards for those operators having an interest in competing for the management of the routes covered by the concession.

2) With respect to the topic of **market contestability and public service obligations**, the Authority focused its activity on **land transport services**: companies traditionally operating only in one mode of transport tend to **diversify their activities** by expanding in neighbouring markets and the role of **platforms offering mobility technological services** is ever increasing. The changes under way represent, in the regulator's view, an opportunity to **re-evaluate market failures** taking advantage of the new technologies.

Against this background, the Authority adopted a methodology to define, with reference to all modes of transport and to both local and national transport, **the areas falling within the scope of PSOs** and their financing. The core concept is the **unexpressed demand for mobility**, which enables to identify types of services or ways to provide them which can be supplied under commercial conditions and do not require to be supported by public financial compensation. A relevant example is the case of scheduled transport services in a situation of "**weak demand**", which can be replaced by non-scheduled multiple-demand services or by using shared modes of transport and pooling.

Further, in the case of services subject to PSO, which concern millions of "**commuters**" every day, the Authority developed a methodology to identify the **minimum quality standards** to be

covered in service contracts. The methodology developed so far with regard to rail passenger transport identifies quality factors, procedures to calculate and monitor the relevant indicators and general criteria for the imposition of penalties. From the regulator's viewpoint, in particular, **the measure of quality corresponds to the time and cost of restoring** full service functionality. Quality has therefore an economic value, too; however, it **cannot be represented solely as an additional cost**, since it is a direct expression of the company's operational efficiency.

With regard to liberalised markets, as in the case of **medium- and long-distance bus transport**, the Authority carried out a survey and delivered an opinion at the request of the Council of State, whereby it considered that any residual reference to the "public interest" or the "national interest" associated to this service should be regarded as outdated by the present **highly competitive market structure**, as well as by the **ways in which the service is used** and the **availability of platforms** favouring the matching of demand and supply.

3) with reference to the issue of the **protection of passenger rights'**, the supervision exercised by the Authority produces the desired **deterrent effects**: most of the relevant proceedings are concluded with an **admission of liability** by the transport undertakings concerned and the payment of the relevant **penalties**, despite the reduced amount of payment. The report also highlights some of the **contradictions and gaps of EU and national provisions** pertaining to **passenger rights in the various modes of transport** and reports on the initiatives the Authority intends to promote in close cooperation with the **associations** representing passengers and with a special focus on the issues of the **persons with reduced mobility**.

4) The fourth topic, the **efficiency of operation**, impinges upon all the Authority's functions. In some cases, the applicable criteria to ensure that the pursuit of efficiency complies with the economic equilibrium of the IM are directly provided for by the law. In the case of **railways**, for example, the Authority has provided for accounting separation requirements, defined the relevant and efficient costs of the infrastructure manager and identified the criteria to cover these costs through charges as provided for EU regulations. With reference to motorway infrastructures, too, the law identifies directly the criteria to be applied for the purpose of pursuing efficiency and provides that the optimal management area of motorway sections be identified so as to promote "**competition by comparison**". The Authority has therefore defined the relevant methodology by applying, in particular, the **stochastic efficiency frontier analysis**.

Even where the law has not explicitly stated the principles for pursuing productive efficiency, the Authority has applied the **competition-by-comparison approach** also to other areas falling within its remit. This methodology allows to advise the companies concerned about the **efficiency targets to be achieved** even in the case of markets where actual competition is hindered, where strong information asymmetries are in place and it is therefore more difficult to define the costs of a service and their charging on final prices. This method has been applied to a proceeding initiated on **PSO regional rail passenger services** and the Authority is considering to test its application also to the **airport sector** on the occasion of the full revision of the airport charging models in 2019.

There follows a focus on the Authority's **vision and strategy**, by addressing the issue of the **relationship between independent economic regulation and politics** and recalling Jean Tirole's words about the mistake of building this relationship in terms of antinomy. The President's address further expands on the strategic importance of the **regulation of technology platforms** supplying new mobility services and on the so-called **Internet of things** applied to traditional physical infrastructures.

As for the Authority's **organisation and operation**, information is provided on the Authority's staff, which is almost complete as a result of the selection procedures. It is further reported on the judgement (**no. 69/2017**) whereby the Constitutional Court ruled that the question of constitutionality raised in respect of the provisions concerning the Authority's **financing** included in the statutory rules was unfounded.