



Courtesy translation of the original Italian text

Annual Report to the Parliament

Address by President

Andrea Camanzi

Chamber of Deputies

16 July 2014

Distinguished Guests, Ladies and Gentlemen,

with emotion, for the honour I was given to chair the first Board of the Transport Regulation Authority, I wish to thank the President of the Chamber of Deputies for hosting us today and take the floor to present the first Annual Report to the Parliament.

I would like to extend a special greeting and best wishes for a speedy recovery to Commissioner Barbara Marinali, who is unfortunately not attending today due to the after-effects of an accident which occurred on May, 25. My greetings are shared by Commissioner Mario Valducci, also attending today, and the Authority's staff.

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The need to establish an independent regulator in the transport sector has been on the agenda for many years, indeed since 1995 when Law No 481 was passed on the regulation of public utility services.

**The establishment of ART.
A significant political
capital has been invested
and should not be wasted**

After almost twenty years and a number of invitations and commitments to liberalise the transport sector, including the letter of the European Central Bank to the Italian Government of 5 August 2011, the framework of the independent economic regulation of public services has been completed: established in 2011, the Transport Regulation Authority was set up with the Board's settlement in Turin on 17 September 2013.

It took two years from the Authority's establishment to its setting up: over this period a number of rules - contained in decree-laws extensively modified during the stage of their conversion into law - have re-written the procedures concerning setting up, powers, head office (moved from Rome to Turin), amount and methods of payment of the initial endowment borne by the State budget as well as logistics and organisation. In consideration of these events there is no denying that the Authority is the expression of unhurried decisions. I shall later focus on the Government's most recent legislative action having an impact on the Authority's organizational and functional autonomy.

Indeed, quite a number of urgent transport regulatory issues are awaiting to be solved; many are the Community complaints and infringement procedures; the EU expectations are well known. I wish to recall just the one included in the Council Recommendations on the Italian National Reform

Program for the current year, i.e. "*ensure swift and full operationalisation of the Transport Authority by September 2014*".

The reason underlying this recommendation is that, according to the EU, the Authority contributes to defining the reform of the transport sector which is fundamental for a better use of public funds and a stronger contribution to the productivity growth of the Italian economy.

For this purpose, economic regulatory models developed by the Authorities are needed: being independent from the Government and the regulated companies, they can guarantee transparency and separation of the functions of awarding authorities and operators from those of regulatory bodies. Indeed, only this separation ensures stability and predictability of regulation and guarantees users, new entrants and investors.

Regulatory measures are needed to encourage the exploitation of economies of scale and intermodal integration, and to foster technological innovation and market development. The Authority has taken up these challenges. Now it is necessary to lay down the conditions to make it fully and quickly operational.

Much political capital has been invested in the Authority's establishment; certainly this is not the time to deplete such capital. For its part, the Authority does feel the urgency and responsibility to accelerate the distribution of its first dividend in the form of good regulatory measures.

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The current economic, industrial and public finance outlook is very different from that in the 90s, when a wave of euphoria was experienced for the expected benefits of market integration and liberalisation. Despite the different context, today just as it was in the past, removing the management of the "regulatory risk" from political mediation is a prerequisite to attract investment, including private, in the regulated markets. And this brings clear benefits to public finances.

The delay in the transport sector and the demand for independent economic regulation

So far the transport sector has been only touched upon by both the wave of change characterizing the '90s and the following changes of the economic and institutional structure. Therefore, important regulatory policies, such as the application of regulatory accounting models to identify the eligible costs for the purpose of determining charges, have been only partially used.

Different choices would have provided the infrastructure managers with a safer basis to determine charges, tolls and fees with clear benefits for investors and users as well.

Last but not least, the independent economic regulatory model could have led to more informed choices for in-house management and direct awards: this issue is of crucial importance to give substance to the objectives of structural expenditure reduction for the production of local public services.

By using the available data (i.e. data which were not processed by the Authority for regulatory purposes), we have tried to point out in the Report the regulatory deficit to be bridged for each mode of transport. Based on the information received since we started our activities, there is a strong demand for innovative and efficient economic regulation by passengers, investors and the market.

The next generation of services is just around the corner: its development needs a regulation that unleashes the use of the existing infrastructure capacity.

In areas where vertically integrated dominant undertakings operate, as in the case of rail transport, it is fundamental that the infrastructure management be separated from the provision of services. Otherwise, there are neither incentives to saturate the available capacity nor sufficient guarantees of a fair and non-discriminatory access to infrastructures.

Issues of separation and equitable and non-discriminatory access are not only posed for the network. Many other goods and structures which are essential to the development of new competitive services must be made accessible, where necessary, also through the imposition of appropriate separation obligations. Let us consider, for example, the availability of rolling stock, shunting services, maintenance centres, systems for passenger assistance and access to stations, booking and ticketing systems, complaint handling procedures for the protection of passengers' rights.

On these issues, we need to catch up the delay in the development triggered by service technology platforms. In this regard it can be helpful to recall past experience in other areas.

In mobile communications, for example, the number portability has been one of the essential elements of the service provided to operators and users for almost fifteen years. Originally, portability was imposed by the regulatory body. Today this solution, which facilitates users, encourages competition

among operators and is the result of technological innovation, is regarded as a prerequisite.

Why not apply the same or comparable solutions, so simple and yet highly innovative, to transport, too ?

By way of example, if you want to buy tickets at railway stations, you will have to zigzag through ticket machines, each one belonging to individual railway companies and being built with proprietary systems. If each of them were structured as an open kiosk, where the services of a number of transport companies could be purchased - both regional and urban, long-distance and high-speed - fewer devices would be needed with lower management costs, better services and less inconveniences to passengers.

Integration and interoperability of different platforms for booking, payment, ticket issuance, control and tracking of the use of transport means, as well as logistics platforms for freight, are somewhat complex, but allow huge reductions in operating costs and lead to indisputable advantages and ease of use. Moreover, European standards are along these lines and tests are underway in Italy, too.

In a nutshell, it is necessary to focus on passengers or transported goods and not so much on the infrastructure used or the technical means moving them. We believe operators are ready for this change.

I mentioned just a few examples of our long-term vision. Technology solutions often solve the problems of market economic regulation.

Not only regulation and technology are intertwined, so are regulation and structural reforms, which must go hand in hand. Quality and timing for the release of the "regulatory dividend" will depend on how we keep our foot on the throttle of the transport policy reforms.

From the outset, the Authority has pursued four strategic objectives.

Strategic objectives

The first was speed. A few days after setting up the Board, on the 23rd of September 2013, we concluded an agreement with the Competition Authority, that made available to us equipped offices at its premises, which we are still using today, and paid the advance of the (modest) public funding provided for by the law establishing the Authority.

On October 12, 2013, we opened our offices at the Lingotto building, thanks to the services shared with the *Politecnico di Torino*. In the first hundred days, beside the acts and regulations preparatory to the start-up of our

activities, we made the decision concerning the entry into operation as of January 15, 2014 and issued a notice for the recruitment of the first staffing group seconded from other public authorities, whose selection ended last 27 June.

The second strategic choice was the containment of fixed and variable costs, including those related to staff. In particular, the staff treatment is characterized by the rules on career development, which is geared towards meritocracy and excludes automatic advancements. Also the number of staff qualifications and the corresponding allotment of wage levels are limited and no administrative extra allowance has been provided for. Based on these measures the Authority's cost of labour is about fifteen percent lower than that allowed.

Furthermore, since its establishment, the Authority has shared communications services, computer equipment, information and security system, including website hosting, property global services with the *Politecnico di Torino* and with the Competition Authority in Rome. A loan-for-use agreement has been concluded with the *Politecnico* for the offices in Turin. Sharing instrumental services from the very beginning has proved to be effective, not only to contain costs, but also to complete the start-up phase on schedule.

By containing its costs, the Authority was able to limit the amount of the fees requested for 2014, upon initial implementation and subject to adjustment, from companies operating in transport. In fact, when it is fully operational, the Authority is entirely self-financed. In order to quantify the fees for 2015 the Board has already approved to launch an *ad hoc* consultation with the companies.

The third choice was to anchor the Authority's actions to the common transport policies within the EU. For this purpose, already before starting up its activities, the Authority initiated fruitful collaborations with EU institutions and, in particular, with the Commission. It also joined EU associations, working groups and regulatory body networks for rail and air transport and for the protection of passengers' rights, and took over the execution of the tasks assigned to independent regulators in the field of EU freight transport corridors.

The fourth strategic choice was to focus our activities on five major regulatory issues: airport charges regulatory models, charging systems and definition of the optimal management areas of toll motorway sections,

access to railway infrastructures, award of local public transport services on an exclusive basis and protection of rail passengers' rights.

All the above-mentioned proceedings are in progress, though in different stages of development. Due to time constraints I shall describe only some of them, while referring to the Report and its addendum for more detailed information.

Ongoing activities

The Authority has developed regulatory models for the determination of airport charges. They are consistent with Directive 2009/12/EC which provides that these charges be set through a compulsory consultation procedure between airport managing body and users and that an independent authority be established which either party may apply to in case of disagreement. On the other hand, in case of positive outcome of the negotiations, the Authority shall certify that the charges have been set consistently with the criteria and in accordance with the pre-defined regulatory obligations and the airport managing body shall apply them directly.

Airport sector

The Authority's proposal is divided into three airport size classes as identified based on the number of passengers per year. The same scheme applies to them all, but regulatory obligations decrease with the decreasing market power of the airport managing body. Specific procedures and criteria for data reporting and communication are identified for each model to enable the Authority to exercise its powers of supervision and control over the correct conduct of the entire process.

The models proposed by the Authority simplify existing procedures and make them faster and more flexible, by assigning specific responsibilities throughout the decision-making chain. In this latter respect, among other obligations, there is still a requirement for the airport managing body to draw up and make public the "four-year investment plan" for consultation purposes. The plan, which shall comply with the airport planning tools approved by ENAC¹, shall include: a) a general report describing the scheduled works and the related costs; b) a time schedule of the works; c) information on any operating or capital public financing directly or indirectly provided; d) results expected from the proposed investments.

Of course, the investments allowed for the purpose of determining the charges are only those made by the airport managing body with equity or debt capital and do not have public finance implications.

¹ The Italian Civil Aviation Agency (TN)

Moreover, the need for a paradigm shift is evidenced by the delays and difficulties in adjusting the airport charges levels under the existing procedures. In this respect, I shall only touch upon the current situation of regulated airports characterized by three different systems: seven airports have benefited from the terms established in the relevant "ordinary" programme contracts including a four-year regulatory period; five airports are subject to the so-called "derogation" programme contracts, where the derogation also applies to the duration of the regulatory period; the remaining airports are still subject to the system of ministerial charges providing for the annual adjustment to the inflation rate as compared to the basic level of the year 2000.

In the motorway sector, two regulatory activities are in progress. The first one is aimed at establishing the toll systems and at defining the optimal management areas of motorway sections in order to promote competition by comparison. For this purpose, and as a result of a consultation with airport managing bodies and their association, the Authority has built a database to collect economic and technical data disaggregated by section and level of individual concessionaires. Such data will be used to implement a quantitative, parametric and non-parametric analysis model for the assessment of the operational efficiency of individual concessionaires and for the relevant comparison. Data collection is in progress. Once it is completed and the model is implemented, analyses shall also allow to define efficient cost functions and optimal service areas to serve as a basis for the regulatory measures aimed at rationalising the market in the EU context.

Motorway sector

The second activity relates to the definition of the concession scheme to be included into the new tender to be adopted by the Ministry of Infrastructure and Transport for A22 Modena-Brennero section, as a result of the consultation. The initiative follows the recent State Council decision cancelling the previous tender, published by ANAS² in 2011, and triggering the Authority's powers on new concessions.

In the railway sector, an Authority's proceeding is ongoing for the adoption of specific regulatory measures aimed at ensuring equitable and non-discriminatory access to railway infrastructures. Also on the basis of numerous complaints, we checked whether the existing regulation was appropriate with reference to eleven specific issues concerning the organization and management of the sector and, in particular: inventory of network facilities, application of the direct cost method for charging purposes, definition of unbundling and regulatory accounting requirements,

Railway sector

² The Italian National Roads and Motorways Government-owned company (NT)

allocation of capacity to railway undertakings and (also) to regions for multi-year periods, access regime and use of essential goods for the provision of competing services (rolling stock, depots, maintenance areas, control systems).

The efficient regulation of these issues directly affects the level of competition of passenger transport services on high-speed networks, the actual competition of regional passenger transport, the level of competitiveness for freight transport and the related logistics systems. Other issues include the management systems of the performance scheme, the definition of the criteria for the allocation of advertising space and information desks, and the procedures to obtain the availability of spaces for the supply of automated services to end customers.

The Authority is determined to review the regulatory system for access to rail infrastructures and the calculation mechanisms of the related charges by applying the direct cost method also to encourage the commercial exploitation of the installed network capacity. The first steps in this direction have already been taken.

The relevant legal framework is changing. At EU level the so-called "Fourth Railway Package" is under discussion in the Council, following a first reading by the European Parliament, which unfortunately turned out to be conservative as for the network manager independence and the mandatory term for the award of contracts for universal services by competitive procedure.

But the market is changing, too. Initiatives are ongoing at regional level for the award of regional public transport services by competitive procedure; as for high speed, Spain has recently decided to open up a part of its network to competition; with respect to the separation of network management from services, new legislation has been adopted in France.

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Significant resources have been devoted by the Authority to the exchanges with the operators of regulated markets. The hearings included nearly two hundred undertakings, associations and public authorities. We received many comments, memorandums and statements which have been extremely helpful in order to identify the interests at stake. We were also requested to initiate specific regulatory proceedings on rail cabotage and on taxi and car-and-driver hire services, which are currently being investigated. Finally, many complaints were submitted by individual passengers for the protection of their rights, in particular those governed by EU regulations. As

Future challenges

for rail transport, on 4 July, we published the rules on penalty proceedings together with the relevant complaint form.

In the near future, the inquiries initiated by the Authority will have to be completed. To this end at least three things are required: a stable logistical and operational head office; powers to directly recruit the skilled resources that are still needed; a consolidated financial balance. Not all of these requirements are now appropriately met.

The Authority's operational structure is still at an early stage. Indeed, the first group of staff already selected for Turin office is being recruited on the Authority's permanent staff; also ongoing is the personnel selection to complete the staffing plan as well as the investments of *Politecnico di Torino* to set up the necessary additional workstations.

This sensitive phase is affected by the measures provided for in article 22 of Decree Law No 90 of 24 June 2014. Not only do they not facilitate the prompt and full operation of the Authority by September 2014, as recommended by the EU, but they introduce additional weaknesses and uncertainties, both in terms of logistics and staff recruitment. We hope that upon its conversion into law the Parliament and the Government will amend these provisions so as to facilitate the Authority's consolidation and ensure its growth in the delicate phase of conclusion of the above-mentioned regulatory proceedings.

Decree Law No 90/2014

Over the longer term the Authority will address the basic regulatory issues falling within its remit. From 2015 on actions will be also targeted at the maritime and port sectors which are, *inter alia*, subject to reform proposals of the Government and the Parliament.

Regulatory policies

In conclusion, a diverse set of sectors fall within the general definition of transport. For each of them different challenges and developments are at stake. Given this diversity there is a growing demand both for integrated services and their innovative and simpler use.

The technological development and the thrust towards the reduction of direct costs and negative externalities have increased the use of transport services which were absolutely alternative in the past. Past methods do not favour integration and innovation. The Authority's vision is to regulate not only individual sectors, but also inter-modality and inter-connections looking for opportunities for efficiency spill-overs.

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In writing this report I went through the ten months elapsed since the setting up of the Board and the six months and a day since the start-up of our activities.

Thus I relived the appreciation for the cooperation ensured by the institutions in order to favour the quick start-up of the Authority's activities and, in particular, the City of Turin and its *Politecnico* and the Competition Authority which are still supporting us in different ways.

I wish to thank the central and local authorities currently collaborating with the Authority. Likewise I wish to thank the State Council, the Regional Administrative Court of Latium, the State Attorney and the *Guardia di Finanza*, with which a fruitful cooperation has been started.

May I offer my sincere thanks to my colleagues Barbara Marinali and Mario Valducci with whom I share the extraordinary experience of providing an early boost to the Authority's actions.

Last but not least, I wish to thank, without formalities, but with genuine gratitude, the staff of the Authority - the handful of stARTtuppers - who worked generously and devotedly making it possible to achieve with the available resources the first results I had the honour to present today.