

courtesy translation

Decision no. 48 of 30 March 2017

Regulatory measures on the definition of the methodology to identify the scope of public service and the most efficient financing arrangements, pursuant to article 37 (3) (a) of decree-law no. 201/2011 and article 37 (1) of decree-law no. 1/2012.

EXPLANATORY REPORT

30 March 2017

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Background

By Decision no. 49 of 17 June 2015 (cf. article 2 (1)), the Authority initiated a "proceeding to define the methodology to identify the scope of public service and the most efficient financing arrangements"; the formal proceeding was launched by Decision no. 83 of 21 July 2016, which identified a regulatory scheme (Annex A to the aforementioned Decision) and initiated the relevant public consultation phase to collect observations and proposals from the stakeholders.

On the basis of the outcome of the consultation, as well as of the significant changes to the relevant legislative framework and outlook (see below), the regulatory measures attached to Decision no. 48 of 30 March 2017 have been rephrased, as compared to the text of Annex A to Decision no. 83/2016, in a new text that takes into account the comments received by the stakeholders. Further, the new text takes into consideration the opinions delivered by the National Anti-Corruption Authority (ANAC) and the Competition Authority (AGCM), on the basis of bilateral cooperation agreements concluded by the Authorities (cf. notes dated 16 September 2016 (ref. ART 6788/2016) and 28 October 2016 (ref. ART 8033/2016), as well as the comments by the Conference of Regions approved at the meeting of 29 September 2016.

The consulted parties repeatedly referred to the draft Legislative Decree on the "Consolidated act on local public services of general economic interest" (so-called "TUSPL"), which implements articles 16 and 19 of Law no. 124 of 7 August 2015, laying down specific provisions on the mobility areas for local and regional public transport services and on the definition of tender lots, as well as on the identification of service levels, while assigning additional regulatory powers to the Authority in the local and regional public transport area, including as for determination of tender lots.

The procedure for approval of the above-mentioned Legislative Decree was concluded at the meeting of 24 November 2016, with the final approval by the Council of Ministers. By judgment no. 251/2016, lodged on 25 November 2016, the Constitutional Court accepted the appeal promoted by Veneto Region, ruling on the constitutional illegitimacy of Law no. 124/2015, where it provides that the implementing Legislative Decrees be adopted after "prior opinion of" and not "prior agreement with" the Regions as for subject-matters, including local public transport, where mere consultation does not sufficiently ensure the rights which are attributed to the Regions by the Constitution. Therefore, it also follows that the regulations contained in the draft Legislative Decree at issue, implementing Law no. 124/2015 on local public transport services is illegitimate too, and that, according to the Constitutional Court, its drafting requires the agreement with the Regions.

Considering that the adoption of the regulatory measures falling within the Authority's remit should be ensured by providing for the necessary coordination with the regulatory framework of this area and that, as a result of the judgement of the Constitutional Court, there is no legal certainty as to the regulatory framework of the measures to be adopted, at the meeting of its Board on 30 November 2016, the Authority did not consider it appropriate

to adopt, pending this situation, regulatory measures for defining the methodology to identify the scope of public service and the most efficient financing arrangements. Consequently, it was decided to extend the time-limit for the conclusion of the procedure, which had been initiated pursuant to Article 2 of Decision no. 49/2015, by a reasonable time with respect to the need for greater clarity as to the development of the regulatory framework of local and regional public transport.

The Measures described herein are therefore referred to the current legislative framework in force (before TUSPL), which, in the period elapsed since the afore-mentioned judgment of the Constitutional Court, was not affected by any legislative interventions. Nevertheless, the widespread references of the stakeholders to the above-mentioned Legislative Decree and to the purposes pursued by some of its provisions, where relevant for the matter at issue, have been taken into consideration during the preliminary inquiries. At the same time, it was necessary to express clearly the concept of Mobility area in both the "Definitions" (cf. last section of the measure) and text of the Measures: in this case, if the TUSPL were in force, it would have been sufficient to introduce a mere cross-reference.

As compared to the draft measures which were submitted to consultation by the a.m. Decision no. 83/2016, taking into account the opinions and observations received, appropriate modifications and additions have been made, which are described in detail here below for each of the Measures concerned, with the general purpose to better highlight the sequential rationale of the proposed methods and find out, where appropriate, the correlations with the planning tools of transport services which are already provided for by existing legislation (in particular Legislative Decree no. 422 of 19 November 1997).

With reference to the framework of the Authority's regulatory activities, these measures complete those adopted by Decision 49/2015 above, by proposing a methodology that specify, in accordance with EU law, assumptions and verifications to be carried out to identify the Scopes and related "Public Service Obligations" (PSO), by defining the various methods for financial coverage, including revenues from charging.

Both in the present measures and in those of Decision no. 49/2015, the services concerned are those characterised by PSO. They are "services of general economic interest" (SGEI), i.e. according to the EU definition, *"economic activities which deliver outcomes in the overall public good that would not be supplied (or would be supplied under different conditions in terms of quality, safety, affordability, equal treatment or universal access) by the market without public intervention. The PSO is imposed on the provider by way of an entrustment and on the basis of a general interest criterion which ensures that the service is provided under conditions allowing it to fulfil its mission"* (European Commission, COM (2011) 900, F1).

As explicitly stated in their explanatory report, the regulatory measures of Decision no. 49/2015 aimed at promoting, on the one hand, equitable and non-discriminatory conditions for the operators' participation in the tender procedures and, on the other hand, at introducing efficiency-oriented criteria for determination of compensation, including both those provided for in the contract value and falling within the scope of service contracts awarded on an *in-house* basis or directly. On the other hand, the present measures impinge

on the processes leading to the definition and structure of transport networks and to the geographic perimeter of the awarded services, which by their own nature are likely to affect the efficiency and effectiveness of the transport systems in general and the long-term efficiency of the operations. Appropriate incentives in public service contracts and correct calculation methods of the compensation may not be sufficient to save public resources or attract more travellers if the service is not designed so as to meet the citizens' mobility needs, if it creates unnecessary functional overlapping or if it does not allow companies to achieve economies of scale.

Purpose and content of the measures

Pursuant to the decree establishing the Authority, the Measures shall define the methodological criteria to identify the scopes of public service (hereinafter: Scope or Scopes), in the different transport modes (road, light rail, subway, railway, cable, lake, lagoon, river and regional maritime). These criteria are oriented to meeting PSO and, in general, the essential mobility needs of citizens, with reference to a given territory, through efficient public finance arrangements.

In order to meet some of the stakeholders' requests during the consultation, it is considered appropriate, before defining the methodology, to pay particular attention to the concept of "Scope of public service", highlighting its differences and correlations with those of "Mobility area" and "Award lot", in particular:

- A. **"Mobility area"** means a specific seamless part of territory, where a situation of self-containment of the mobility flows is determined, based on analyses of the «potential demand» of the population concerned. The territorial perimeter of the Mobility area is therefore defined by the competent authority on the basis of a specific "demand" for mobility, which in particular cases may be characterized by a significant expansion and/or reduction, thus allowing to identify "weak demand" (areas);
- B. **"Scope"** (of public service) means a comprehensive system of transport services as determined by the competent authority, so as to meet PSO and, in general, the citizens' essential mobility needs pertaining to a defined Mobility area; the system may be composed of different modes and types of transport (and related remuneration), even without direct compensation of the operators.

The identification of the Scope is carried out by the competent authority on the basis of a specific "supply" of services, including the choice of different modes and types (scheduled, non-scheduled) with the purpose of optimising performance, efficiency and cost-effectiveness of the solutions to be adopted, while ensuring, on the one hand, to optimise the conditions relating to quality, security and degree of innovation of the services concerned and, on the other hand, to minimise costs (including in terms of public compensation) and negative externalities, without prejudice to the general objective of fulfilling PSO as identified;

- C. **“Award lot”** means a specific network of transport services, as defined by the competent authority on a geographic and/or modal basis by analysing the conditions of the service production and of the market in relation both to the “minimum optimal dimension” of the service production and to the “contestability” of the service to be awarded so as to enable maximum participation in the procedure.

Here below are summarised the essential steps of the operational methodology defined in the measures. Please refer to [Appendix 1](#) for the scheme of the conceptual and operational aspects associated with the concept of “Mobility area” - “Scope” - “Lot”:

- 1) *Measure 1 – definition of “potential demand”* for mobility: the first methodological step implies the definition of the perimeter of the Mobility area by the competent authority, by identifying the extent of the actual needs of the population through surveys and/or simulations (i.e. origin/destination matrices) referred to “potential demand”, including as to its socio-economic, behavioural and demographic characteristics, and appropriately supplemented by any indicators of “effective demand” (i.e. surveys on number of passengers using the existing services, traffic data).
The conduct of this procedure is considered as essential for the proper identification of each Mobility Area by the competent authority, which is preliminary to the following appropriate choice of the different modes/types of transport systems to be planned and implemented in a given Scope (cf. 3 below).
- 2) *Measure 2 – definition of “weak demand”*: the above-mentioned first step is supplemented by identifying specific “territorial”, “time-related” and “subjective/socio-economic” criteria to be used to identify within the Mobility Area specific areas where significant situations of reduced/extended mobility are in place, which may require some form of public compensation, since no economic operator, “when taking into account its own commercial interest,” would serve that demand. Therefore, over time, the concept of “weak demand” (or “weak demand area”) has been traditionally linked to the provision of PSO services. However, the pre-requisite for the above public intervention must be a rigorous procedure for identifying weak mobility needs and the most effective ways to meet them.
- 3) *Measure 3 – choice of transport services within the Scope*: in relation to the “demand” for mobility observed in a specified Area (cf. previous step), the methodology defines the key guiding principles to be followed by the competent authorities in the choice of the transport services to be implemented in a Scope, depending on the possible modes and types, so as to achieve the objectives of performance, efficiency and cost-effectiveness of the process, with particular reference to appropriate levels of integration of services and integration/differentiation of charges (cf. Measure 5), including through innovative technologies; the options take into account specifically the identified “weak demand” areas and their “extension” in the urban and suburban context versus medium-long distance (“weak relations”), while defining appropriate criteria for identification of the services, as provided for in the same Measure.
- 4) *Measure 4 – Identification of PSO and their financial coverage*: in close connection with the previous methodological step, the Measure defines the ways for identifying PSO and calculating the cost of services (assuming “cost-effectiveness”), establishing thereupon

the options for the related financial coverage and identifying, in particular, solutions to minimise the use of public resources which are consistent with other public policy objectives.

- 5) *Measure 5 – determination of charges*: to complete the proposed procedural steps, considering that PSO can be covered not only by compensation but also by charges, the methodology identifies the general criteria aimed at supporting the competent authorities in the determination of the charging system of the Scope-related services, including any integration of more operators and reliefs and/or exemptions provided for certain categories of users.
- 6) *Measure 6 – identification of the lots to be awarded*: the last step in the methodology defines the principles underlying the sizing of the awarded services; the measure at issue provides for the market analysis and determination of the "minimum optimal production" so as to maximize both the operational efficiency of operators and the Lot contestability. The requirement of minimum optimal production is aimed at verifying or allowing that future operators may work under (long-term) efficiency conditions, including by achieving economies of scale and density, while contestability is linked to the number of potential participants in the awarding procedure: the more they are, the more successful the procedure.

With reference to the procedure for identifying the Scope, underlying the whole proceeding, attention should be drawn on the following additional issues:

- a) depending on the choices made by the competent authority, the Scope, understood as a comprehensive system of "optimal" transport solutions (cf. above), will be referred to a specified territory that may coincide with a specific Area (as referred to above) or represent a part/sub-area thereof; therefore, an Area may include one or more sub-sets of services to meet the essential needs for mobility of the population;
- b) depending on the characteristics of the observed demand and with particular reference to the areas characterised by "weak demand" (cf. above), a variety of possible transport solutions can be identified within a Scope (and hence Area), in particular:
 - *from an operational viewpoint*: "ordinary" scheduled services versus non-scheduled or "flexible" services (e.g. "demand-responsive") as defined in Measure 4, in particular for "weak demand";
 - *from a regulatory viewpoint*: services subject to Public Service Contracts (e.g. local public transport), usually associated with exclusive rights, versus services managed by regulatory "tools" (e.g. demand-responsive systems, as detailed in Measure 4);
 - *from an economic viewpoint*: services subject to compensation, in accordance with the methods specified under Measure 4, *versus* services not receiving public financing, which may be characterized by exclusive rights and/or subject to mere authorisation, including services under "market" regime (not subject to PSO), which are comprised in the Scope on account of existing externalities or network effects, thus allowing public savings, while protecting the relevant public interest (as expanded on in Measure 4);
- c) with specific reference to public service obligations (PSO) related to the definition of the Scope, the competent authority shall define them in accordance with EU law, with respect to each of the transport modes identified, while assessing:

- *in general terms*, minimum quality standards of the service; requirements concerning the security and protection of passengers and persons with reduced mobility, including the related rights; measures for environmental protection;
- *in relation to economic and financial aspects*, costs of (each) service concerned, including environmental negative externalities, calculated on the basis of "efficient cost" assumptions, in order to determine the overall financial coverage (methods for compensation and other revenue sources (cf. Measure 4) and applicable charges (cf. Measure 5);
- *in particular, as for scheduled services*, relations to be served (routes/stops-destinations) and intensity of supply (frequency, timetable, periodicity).

As already pointed out in the drafting of previous Decision no. 83/2016, the Authority's powers on the regulation of the "scopes of public service" (or equivalent "scopes of public service") vary depending on the transport mode involved, in particular:

- a) *for passenger rail transport*: pursuant to Article 37 (1) of Decree-Law no. 1/2012 the Authority has the power to define, *"having heard the Ministry of Infrastructure and Transport, the regions and local authorities concerned, the scope of public service on rail sections and their financing arrangements"*;
- b) *for other modes of transport*: pursuant to article 37 (3) (a) of decree-law no. 201/2011, the Authority has the power to *"encourage and assist the competent public authorities to identify the scope of public service and the most efficient financing arrangements, by issuing opinions which may be made public"*.

As the term 'Scope' is essentially the same in both the above-mentioned provisions (although it refers to different modes of transport), it was considered appropriate, from the first stage of this procedure, to identify and define common methodological principles and criteria, including in consideration of the existing interrelations between local and regional networks, on the one hand, and national networks on the other, as well as between different modal networks and "technology platforms".

However, despite a single methodological scheme, the modes of application of the aforesaid principles should be considered to have different "content", depending on the above distinction (rail/non-rail) as provided for by the legislation in force. In particular, the methodological criteria:

- *as for rail transport services* (referred to under a)), will be applied for the purpose of identifying the Scopes, in the case of local and regional services, and weak relations in the case of medium and long-distance rail services, having (direct) effect on the relevant planning and preparatory activities for the awarding of services by the competent authorities.
- *as for public transport sectors other than rail* (referred to under b)), may be considered by the competent authorities for the purpose of adopting the planning measures provided for by law (i.e. regional transport plan, minimum service planning document, three-year service plan, mobility area plans, urban mobility plans).

Regardless of the nature and legal basis of the proceeding, it is appropriate to highlight that the next measures to be taken by the Authority on this issue will be drafted on the basis of an *ad hoc* process of cooperation and methodological sharing of the parameters to be applied to the territorial contexts, which shall be carried out with the public administrations concerned, with particular reference to the measures for "defining" the Scopes of passenger rail transport, including for the purpose of taking into account the peculiarities of territories and services.

On the other hand, the asymmetry of powers with regard to the relevant transport sectors does not concern the criteria to determine and update charges and to determine the award lots, since sub-paragraph 2 (b) of the a.m. Decree-Law no. 201/2011 does not make any distinction by sector, nor does letter f) of the same decree on tender lots. In particular, the determination of the criteria for tender lots and, more generally, of the lots to be awarded, is a subject-matter which may be referred to the tender notices, in respect of which the Authority has already exercised its functions by Decision no. 49/2015. In the preliminary remarks of this Decision, reference was made to the initiation of a proceeding to define the methodology for identifying the scopes of public service and the most efficient financing methods, which is *"also relevant for the determination and size of the tender lots"*. The identification of the lot to be awarded is one of the factors that mostly affect both the outcome of a tender and the performance of a service awarded through a public service contract (regardless of whether the procedure is a tender, direct or in-house award).

A number of Measures refer to procedures aimed at ensuring the transparency of the acts adopted by the competent authorities, which in some cases (Measure 4.11 concerning railway services only and Measure 6.2 on all modes of transport) provide for reports to be submitted to the Authority for the purpose of its opinion delivery within 45 days of receipt.

Similarly to the regulatory choices adopted in Decision no. 83/2016, it was deemed appropriate not to consider in the methodology passenger maritime cabotage services (sea transport to, from and between islands) as laid down in Council Regulation (EEC) No 3577/92 of 7 December 1992, to which CIPE Decision no. 111/2007 is applied, as this consists in a body of legislation that provides for a system of public service obligations having features which are in part other than those of other transport services, although they include common principles of EU law. On the other hand, maritime services of regional interest falling within the scope of Legislative Decree no. 422 (hereinafter Legislative Decree No. 422/1997) have been considered, as well as the network interdependencies between these services, port infrastructures and other transport services.

The procedure defined in the Measures described below and summarized above, with particular reference to the interrelated concepts of "Mobility Area" - "Scope" - "Lot" supersedes the definitions contained (incidentally) in the Glossary of the Authority's Decision no. 49 of 17 June 2015 concerning "Area or Tender Lot" (*"Bacino o Lotto di gara"*), "Planning Area" (*"Bacino di programmazione"*) and "Optimal Traffic or Mobility Area" (*"Bacino di traffico o di mobilità ottimale"*).

On the other hand, (any) references pertaining to territorial administrative governance, which is assigned and exclusively reserved to Regions, as being characterized by different local situations and subject to continuing legislative interventions by the Government, both systematic or sector-related, falls outside the scope of these measures.

Measure 1 – Definition of the potential demand for mobility

The Measure is introduced by recalling the concept of Mobility Area and defining the meaning of Scope of public service, which have been already developed in this Report (cf. previous paragraph) and are not reported here again.

For the purpose of correctly identifying the Mobility area, which is a prerequisite for determining the transport services to be included in a specific Scope and for identifying the related PSO (if any), the Measure pinpoints the **need to ascertain the size of "demand"**, i.e. the effective mobility needs of the citizens concerned, in order to assess the most efficient and cost-effective modes of transport to be used.

The demand to be referred to is a **"potential demand"** which is related to multiple modes and types of transport, both public and/or private, which is identified as to socio-economic, behavioural and demographic characteristics as well, through specific field surveys and **not only on the basis of indicators of "effective demand"**, which is in any case considered by way of complement, such as those based on the traffic data of outgoing operators. As in Measure 9 of Decision no. 49/2015, the principle is confirmed that the competent authorities should hold data and information in order to ensure their neutrality and comprehensiveness (in particular, the authorities in charge of service planning and scheduling pursuant to Legislative Decree no. 422/1997, which may later transmit their competences to the awarding Entities or their delegated bodies, such as Mobility Agencies, if the administrative offices are different). Besides, the same principle ensures the quality of public decisions (such as those on network planning and service scheduling), which shall be based on the same type of data.

It should be noted that under the Measure the same competent authorities are entrusted with the choice of the methodology of survey and/or simulation to be adopted, highlighting the possibility that this choice be shared by consumer associations and take appropriate account of useful elements for determining the charging structure (as detailed in Measure 5). While, on the one hand, this approach intends to appropriately safeguard the consistency of the choices to identify "potential demand" in relation to the planning/scheduling tools of the public transport system as defined by the administrations, it enables the parties concerned to **"make field surveys 'proportionate' to the expected results**, on the other hand, **including in terms of economic impact**, e.g. with respect to the qualification of the Area and/or the (infra)structural characteristics of the services concerned within the Scope and/or the Lot specifications to be submitted to tender (on a case-by-case basis).

For ease of reference only, though it is quite widespread at a practical level, it is highlighted how the surveys to be conducted may be based on the collection and analysis of **flow data**

through OD matrices referred to various forms of mobility, both public and private, type and mode of transport. Based on these matrices and, hence, on flow data, the travelling preferences of selected samples of population are taken into account, with particular emphasis on the reasons for travelling and the "willingness to pay" for different price/transport mode combinations (cf. Measure 5 below). For this purpose, **"stated preference" methods**, which identify the individual willingness to pay by interviewing selected samples of persons about their preferences on theoretical combinations of service supply. In particular, the preference to use a mode and type of transport is estimated in relation to both different modal alternatives and different requirements or characteristics of the supply of the same mode and type, including price (user charges). Including for the purpose of completing the data collected in the manner described above, this technique may be subordinately supplemented by the results arising from the analysis of the **"revealed preferences"**, to be collected systematically through *ad hoc* mobility monitoring (including the analysis of the so-called big data).

Measure 2 – Criteria for the identification of weak demand

The Measure focuses on the criteria for identification and assessment of "weak demand", which shall be rigorous, depending on the peculiarities of the territories and socio-economic structure as identified by the competent authorities which are fully entitled thereto.

In general terms, the characteristics of "weak" users are found under different circumstances, which are not necessarily interrelated and are potentially referred to:

- land configuration (orography, distribution and population density, urbanisation, accessibility);
- social and demographic structure of the population, with particular reference to its "sensitive" sections (minors, elderly, disabled persons, etc.);
- economic conditions and relevant professional/non-professional status of individuals.

Therefore, the concept of "weak demand" and, consequently, of "weak demand area" should be related to a specific process carried out by the competent authorities within the framework of regional and local public transport planning, based on the identification of specific characteristics which may appear in isolation, such as:

- I. **territorial**, which may be evaluated on the basis of objective and measurable criteria (cf. below) and provide an adequate representation of the specific area under consideration (remoteness, mountainousness, physical inaccessibility, housing density, urbanisation, socio-demographic features, etc.);
- II. **time-related**, relating to night hours or other times of the day ("peak" vs. "off-peak" time slots), holidays and days before holidays, periods of the year in which the number of trips is significantly lower than in other hours/periods of the day/year (e.g. summer months in tourist/non-tourist areas, non-school period);
- III. **subjective - socio-economic**, in relation to measurable and verified conditions of social disadvantage, disability and reduced mobility, professional and non-professional status

(e.g. school-children, students and unemployed) of persons using public transport services.

When (one or more of) these factors have a significant structure, a low "generative potential" of journeys is determined and transport service users are small in number and spatially and timely dispersed.

The same features create more burdensome conditions for the supply of transport services, both in terms of efficient management (e.g. longer travel times to destination or settlements that are dispersed in mountain areas), and in terms of operating costs, regardless of the mode and type of transport used. Therefore, even in the - theoretical – case of sustained presence of users, though dispersed and in mountainous areas, the revenue from charges should in any case cover higher costs at the same service level.

For this purpose, with particular reference to the "territorial" characteristic features of these areas (cf. I above), the Measure proposes to establish and quantify specific assessment and identification criteria, since it is considered this aspect implies major methodological difficulties with respect to the others mentioned (cf. II and III above). In particular, the following criteria are proposed:

- a) population density:** indicator to measure the number of people residing in a given area (normally expressed in inhabitants*km²), calculated on the basis of periodic ISTAT surveys (Section demographic statistics); it is noted that in the literature there is no "consolidated" classification of areas based on population density; nevertheless, merely by way of illustration, the value of 50 inhabitants*km² (in some cases reduced to 30 inhabitants*km²) can be used as a reference threshold for identifying an area with low housing density;
- b) urbanisation degree:** population density index of municipalities, or of percentage of resident population in the urban territory of a given administrative area; the criteria for determination of the indicator are drawn from a specific EUROSTAT methodology based on the assessment of a combined criterion of geographical continuity, population density and minimum resident population threshold, that is applied to a regular grid of territory subdivision into 1-km² "cells"; the results of the application of this methodology are available and periodically updated on the website of the National Institute of Statistics (ISTAT) (Territorial Census - Statistical Classifications of Municipalities); it is noted that in the literature (cf. EUROSTAT - *Regional yearbook introduction*) an area where the majority of the population (> 50%) appears to be resident in so-called "rural" cells, i.e. having a density of less than 300 inhabitants per square kilometre and a total population of 5,000, is assumed to be characterised by a "low" degree of urbanisation;
- c) age of resident population:** considering the potential impact on the mobility demand resulting from the large presence of elderly users, it is considered appropriate that the competent authorities analyse this parameter with reference to a threshold of resident population (pre-determined by the same authority) aged 70 years or older;

d) altitude: indicator to be applied with specific reference to the municipalities located at a height of at least 600 meters above s.l., which is commonly considered as "mountainous" territory; if the competent authority deems it appropriate to expand on the assessment parameters of the territory concerned in this respect, it is highlighted that ISTAT processes the geo-morphological data of Italian municipalities and establishes specific indicators such as "**altitude area**" (division of the territory into homogeneous areas resulting from the aggregation of neighbouring administrative areas based on pre-defined altimetric threshold values) and "**degree of mountainousness**" (indicator based on the application of Law no. 991/52, which classifies the territory of a municipality on the basis of its height and related difference in altitude, as well as on data of income from land) (cf. ISTAT: Statistical Classifications of Municipalities).

If the competent authority deems it appropriate, it may identify and apply any further criteria of analysis/identification of ("territorial") "weak demand", e.g. by taking into account the infrastructure of the territory, the use of the existing supply of services and the level of intermodal competition. In particular, the potential functionality of the criterion for the analysis of the **state-of-the-art and actual use of the existing "service supply"** is underlined in this respect. This parameter is intended to assess the actual correspondence of the existing links with the relevant "demand" for mobility, in the light of the findings of the surveys on the number of passengers using the services related to the area, e.g. by identifying the journeys/lines characterized by a number of passengers on board which is lower than a minimum threshold that has been pre-defined by the competent authority. In this framework, account may be taken also of the existing solutions of non-scheduled (or non-conventional - "demand responsive", "dial-a-ride") services or alternative sustainable mobility solutions (car-sharing, bike-sharing, "social services") and of the relevant degree/state-of-the-art of their integration with scheduled services.

As far as other characteristics of "weak demand" are concerned, the following is highlighted:

- the determination of the "**time-related**" **characteristics** (referred to under II above) by the competent authority may include, but is not limited to, the consideration of the relevance of any fluctuations in the demand within the territory concerned that may have brought to (or would justify in the future) the organisation of discontinuous scheduled services over the year (operated only seasonally and/or depending on periodic "external" conditions which are related, for example, to specific commercial and/or tourist activities) or to existing non-scheduled/non-conventional (e.g. "demand-responsive") transport services pertaining only to certain parts of the territory (sub-areas) concerned;
- the determination of the "**socio-economic**" **characteristics** (referred to under III above) by the competent authorities may include, but is not limited to, the consideration of the existence and relevance within the area under investigation of categories of users subject to specific "protection" on account of economic conditions, reduced mobility and/or professional status, in respect of which particular transport systems and facilities have been implemented (or are considered to be required), in order to ensure that the

mobility requirements are appropriately met. Such systems and facilities are characterized by specific operating conditions, e.g. to support reduced mobility (vehicles specially designed for the carriage of passengers with reduced mobility - low-floor, suitable spaces for wheelchairs - or disability - audio announcements of routes or upcoming stops, routes and/or stops accessible to passengers with mobility and functional impairment, tactile guiding paths, etc.). When assessing the presence of passengers deserving specific protection, the competent authority adopts the necessary measures to check these conditions (e.g. ISEE (*"equivalent financial situation index"*) certification, unemployment status, medical certification, etc.).

In the case of demand for medium- and long-distance journeys, it was considered not to refer to territorial characteristics, but rather to take into account the needs for connecting north and south of the country and east and west with the Adriatic and Tyrrhenian ridges under specific "**weak-demand relations**". Under existing legislation, such links are served by rail services of national interest (referred to in Article 3 (1) (d) of Legislative Decree no. 422/1997) and, pursuant to Article 2 (253) of Law no. 244/2007, they are covered by a Public Service Contract between the Government and Trenitalia as these services are subject to public service obligations ¹.

Measure 3 – Criteria for the choice of modes and types of transport services to meet weak demand or weak relations

Paragraph 1

Based on the outcome of the process of identification of the mobility demand pertaining to a specific Area, referred to in Measures 1 and 2 above, by using the planning tools provided for in current legislation (i.e. Regional Transport Plan, minimum service planning document, three-year service plan, mobility area plans, urban mobility plans), the competent authorities identify the most suitable **network of services** to meet the needs so identified, pursuing maximum effectiveness and efficiency of the transport choices and taking into account both economic and technical and environmental variables. For each mode/type of transport services chosen, the competent authority shall identify the relevant PSO (cf. Measure 4), thus completing the definition of the Scope.

From the point of view of the competent authorities involved in the planning of the transport networks, pursuant to art. 14 (1) of Legislative Decree no. 422/1997, services need to be identified by **integrating the different transport mode, eliminating overlaps and reducing transshipment time** from one mode to another and **overall travel times**, while favouring the interconnection between systems with lower commercial speed and systems characterised by higher performance (e.g. urban interchange between regional road lines and subway or tramway lines, regional interchange with rail services).

A planning of the transport network according to these general principles may already yield significant results in terms of effectiveness of the service supply, by providing users with a

¹ Cf. "Agreement on passenger rail services of national interest subject to public service obligations - 2017-2026", concluded by the Ministry of Infrastructure and Transport and Trenitalia on 19 January 2017.

basket of competitive modal choices, this being the basic condition for meeting the observed demand.

In this context, the criteria of the Measure are geared towards the choice of cost-effective methods or combinations of methods to minimise costs, which can be achieved:

- taking into account environment- and settlement-related factors, together with the operating costs of each mode of transport;
- considering the technical features of the transport modes chosen, which lead to identify the possibilities and technical constraints needed to define the actually feasible modal choices.

Paragraph 2

"Weak demand" or "weak relationship" are so characterised that a suitable provision of services in terms of lower cost for the community is usually possible only by ensuring an extensive **modal integration**, aimed not only at optimising the use of each planned mode of transport, but also at **reducing negative externalities**, with particular reference to the environmental impact.

For this purpose, for this segment of demand, the specific planning of the services concerned will need to set up appropriate **"integration"** plans between different modes and types and **"interoperability"** between different operators, including as for charging, by providing, where necessary, for the implementation of adequate **technological support** to develop systems for monitoring the number of passengers using the services and/or e-ticketing.

The **monitoring systems** established in the public service contracts allow, in particular, to determine the load factor and its distribution over time (e.g. "peak" and "off-peak" time slots), on the basis of which it is possible to make the optimal choice of mode and type of transport or of their optimal combination. The **charging integration** among different operators is the condition for this combination to be economically "cost-effective", thus ensuring that users are offered a truly competitive cost for their origin-destination journey.

Paragraph 3.1

With particular reference to "weak demand" or "weak relation", the Measure analyses the difference in the short- and medium-long distance categories, respectively. In the case of "weak" mobility for short-distance journeys, the Measure identifies the opportunity to adopt solutions related to the so-called Flexible Transport Services (FTS), namely **non-scheduled transport services** and, in particular, **"demand-responsive transport"** (DRT) services, or **shared mobility services**, such as car -sharing and, especially, collective taxis.

Indeed, the potential implementation of such systems provides the competent authority with a sustainable alternative, to supplement "traditional" scheduled services, for "customised" and yet still collective urban and suburban mobility solutions, which are less burdensome for the community. Actually, it should be noted that the use of "demand-responsive" services, such as the implementation of a collective taxi system or other alternative or supplementary

FTS systems, also entails expenditure savings for administrations, taking into account that these services may not require financial compensation, but only an exclusive right or a mere authorisation. In this context, it should also be noted that, where necessary and in relation to the users' reasons for travelling, such systems shall ensure the connection to public transport scheduled networks. Clearly, the attractiveness of these services, as well as in general for all types, is greater where an effective **integration with other modes of transport** is in place. In this respect, the Measure pays attention to the possibility/opportunity to integrate scheduled services with other services that can be implemented in specific cases of "weak demand", which can be classified as being of a "social nature" as they are related to the mobility needs of particular population categories (students - generally up to lower secondary school, elderly, disabled persons and persons with reduced mobility), as well as being characterized by specific needs and service peculiarities (e.g. assistance staff on board is required for school services or certain social services). These services, which were already identified by Legislative Decree no. 422/1997 (cf., in particular, article 14 (4)), are to be regarded as different from local public transport services with respect to applicable law. Actually their management falls within the remit of municipalities and, more generally, within the scope of the "services to people and community", as defined *inter alia* in Legislative Decree no. 112 of 31 March 1998. In the light of the above, the differences between the two types of service above would make their inclusion in a single award Lot more difficult (cf. Measure 6), both in terms of the drafting of the technical offer by the operators, and in terms of their weighted assessment by the competent authorities.

Paragraph 3.2

In order to serve "medium-long distance weak demand relations", the basic principle is that **rail transport service should be preferentially used when demand is fairly distributed** territorially and temporally ("many to many") or where "one-to-one" services are not preferred. The **bus service**, through direct links, **should be preferably used when the demand is polarised** ("one to one") or distributed over many origins, but towards one or few destinations ("many to one"), and not significantly along the route.

Besides merely economic reasons, one of the main advantages of using bus transport is the greater modularity in the design of the supply that results in the possibility of reducing the number of seats in periods of "weak demand" and/or "off-peak" hours while strengthening the service supply during "peak" hours, without the complex organisation that would be necessary in the case of railways due to the intrinsic rigidity of the system. In case of "weak demand", or demand which is mainly distributed at the extreme nodes of a section, bus services would provide an adequate level of mobility with direct services, increasing frequency, where needed, and/or using larger buses (e.g. double-deck vehicles), where demand should make it necessary.

Another advantage of the bus mode is that it ensures greater ubiquity, which enables to expand the number of places connected by long-distance services, thus including not only the major hubs, but any "attractive" places, even without train stations.

It will be up to the competent authorities to balance those advantages with any disadvantages in the use of the bus from the passengers' viewpoint, such disadvantages

being linked to both lower commercial speeds (with following extended travel times) compared to trains, and to the lower mobility allowed on board for long travel times.

It is worth noting that the above-mentioned criteria refer to the scope of the Public service contract which is currently awarded to Trenitalia² and already provides for the supply of transport services by bus (too).

In this context, to protect public economic needs, the Measure highlights how the same competent administration, in the future award of public service contracts, (including those relating to motor vehicle services only, if there are any relevant grounds justifying the separation of "rail-road" award) shall motivate the inclusion of any relations that are already served by "comparable" **public scheduled services provided by medium-long distance buses with no public contributions** (in relation to travel times, time slots, destinations, "affordable" pricing conditions).

It should be pointed out that the Measure does not apply to "market" services, such as inter-regional scheduled services under State responsibility, and that the modes identified for the service provision which are covered by this measure fall within the functional scope of both local and regional motor vehicle and medium-long distance rail "public transport", or under territorial continuity.

Paragraph 3.3

Another general principle concerns the correspondence to be established between demand distribution, when it is focused only in certain periods of the year or of the week, on the one hand, and **organisation/periodicity of the services**, on the other.

In this case it is necessary to identify specific solutions and modes of operation of transport services to be implemented in specific territories (e.g. municipalities) and/or parts of territory (suburban or rural areas, areas characterized by **changing mobility demand**), linked to tourist and/or commercial events, etc.), by planning the provision of:

- scheduled services which are characterized by corresponding periodicity, i.e. provided only at certain times of the day (e.g. "peak" hours, school/factory entrance), days of the week (weekdays vs. holidays) and/or periods of the year;
- non-scheduled (e.g. "demand-responsive") services, or other FTS solutions, so as to optimise the service provision with respect to actual mobility needs occurring in time and space, by adapting, for example, the "demand-responsive" service network only to the part of the territory concerned, without prejudice to the need to provide for its appropriate integration with the network of planned scheduled services.

Paragraph 3.4

Likewise, the Measure expands on the need to identify specific operational and management solutions aimed at meeting the mobility needs of user categories which are characterized by subjective limitations resulting in **reduced mobility**; these needs are normally met through infrastructure solutions and transport facilities which are designed to reduce (physical and non-physical) "barriers" that affect accessibility to transport systems, such as low-floor vehicles and/or vehicles equipped to take on board reduced mobility facilities (wheelchairs),

² Cf. footnote 1.

vehicles equipped with audio systems for announcement of routes and upcoming stops, routes and/or stops accessible to persons with motor and functional disabilities, guiding paths for access to stations/stops, etc.

Measure 4 – Determination of public service obligations and applicable criteria for their financial coverage

Paragraphs 1-4

Within each Scope, the competent authorities shall specify the **public service obligations** in relation to each identified mode/type of transport service (cf. Measure 3 above). PSO services shall be provided to all passengers by complying at least with the minimum quality standards and ensuring the minimum user rights, as established by the Authority in the discharge of the functions referred to in art. 37 (2) (d) and (e) of Decree-Law no. 201/2011.

Regardless of the mode and type of transport used, PSO cover an adequate provision of services in peak time slots, which usually correspond to morning and evening hours of working or school periods, that is strengthened compared to "off-peak" hours. This ensures the access of the population, including where located in less accessible areas, to fundamental rights such as work and education, according to a universality principle which is also adopted at EU level.

Similarly, for all types and modes of services, obligations are provided concerning the application of charges not exceeding pre-determined maximum levels or of facilitated rates as compared to the maximum levels, or the granting of exemptions for certain user categories, in accordance with the criteria set out in Measure 5.

As far as scheduled services are concerned, public service obligations are defined in terms of: relations to be served, frequency, timetable, periodicity and availability of seats for selected user categories. These parameters are at the same time variables of the service scheduling and are sufficiently detailed to qualify a PSO, also in accordance with the Communication from the Commission on interpretative guidelines concerning Regulation (EC) No. 1370/07: *"Typically but not exclusively, public service obligations can refer to specific requirements placed on the public service operator as regards, for instance, the frequency of services, service quality, service provision in particular at smaller intermediate stations which may not be commercially attractive, and the provision of early morning and late evening trains. As an illustrative example, the Commission considers that the services to be classified as public services must be addressed to citizens or be in the interest of society as a whole".*

Paragraph 5

The combination of the different modes and types of transport services as identified to meet the demand for mobility of a specific Area and its PSO implies, as a basic regulatory assumption, that costs are "efficient", as already established in Measures 12, 13 and 14 of Decision no. 49 of 17 June 2015 on transport services referred to in Legislative Decree no. 422/1997, as amended.

The **principle of cost efficiency**, on which clarifications were requested during the consultation with respect to its relationship with the concept of "standard cost", is explicitly recognised in Regulation (EC) No. 1370/2007³, besides being an unavoidable accounting reference of public administrations during the negotiations with third parties. In particular, the above-mentioned interpretative guidelines on the Regulation encourages the use of

³ Recital 27: "Where a competent authority plans to award a public service contract without putting it out to competitive tender, it should also respect detailed rules ensuring that the amount of compensation is appropriate and reflecting a desire for efficiency and quality of service".

efficiency incentives in the compensation mechanism for directly awarded contracts, as the direct award of a public service contract does not ensure that the level of compensation is reduced to the minimum ⁴.

Since the competent authority has to make cost estimates or simulations to evaluate and compare alternative modes and types of transport, the general principle of efficient cost enshrined in EU law has been referred to in this respect. The a.m. provisions, as contained in Decision no. 49/2015, also provide a precise methodology to determine compensation for PSO, both in the case of direct or in-house award and in the case of competitive tender.

In the case of tendering procedures, article 17 of Legislative Decree no. 422/1997, as amended by article 23 (12-*undicies*) of Law no. 135 of 7 August 2012, stipulates the principle that the basic contract value be quantified with reference to the standard cost criterion. The combined provisions of Community law and of a.m. article 17 of Legislative Decree no. 422/1997 ensure that compensation be calculated on the basis of criteria that gradually lead to efficient cost.

In the case of direct or in-house award, the only reference, *de jure condito*, for determining the compensation is the efficient cost criterion⁵. When carrying out the cost simulation for the purpose of evaluating the most cost-effective mode of transport, the standard cost (or an estimate thereof) can be taken as a reference in the absence of efficient cost estimates, it being understood that the two values may converge over time.

The reference to the concept of "efficient cost", including in accordance with the provisions of the above-mentioned EU Regulation, allows also competent authorities to give a more "dynamic" character to the methodological process of the economic evaluation of the transport service system considered in each Scope.

This approach enables the competent authority to connect the objective of ensuring a constant balance between service costs and related revenues (net of a reasonable profit for the operator), to a system of gradual recovery of the operator's efficiency, by achieving quantitative targets, as identified "ex-ante" and possibly shared with the parties, with respect to appropriate parameters, such as the estimated efficient costs, or to national or international benchmarks.

Paragraph 6

Based on the existing EU legal framework, paragraph 6 provides that, for services awarded in the context of service contracts, where the revenues arising from the application of charges do not ensure full coverage of efficient costs, as referred to the combination of services under Measure 3, taking into account any other sources of revenue and positive

⁴ Paragraph 2.4.2. of the Communication: "*The direct award of a public service contract in accordance with Article 5(2), (4), (5) or (6), or the imposition of general rules within the meaning of Article 3(2), do not guarantee that the level of compensation is reduced to the minimum. This is because that direct award will not result from the interaction of competitive market forces, but rather from a direct negotiation between the competent authority and the service provider. (...) The use of efficiency incentives in the compensation mechanism is generally to be encouraged. It should be underlined that compensation schemes which simply cover actual costs as they occur provide few incentives for the transport company to contain costs or to become more efficient over time. Their use is therefore better confined to instances where uncertainty about costs is large and the transport provider needs a high degree of protection against uncertainty*".

⁵ Under existing legislation, the standard cost criterion referred to in Article 1 (84) of 2014 Stability Law is not provided as a reference criterion for determining compensation in the case of direct (or in-house) awards. On the other hand, a specific provision introducing the standard cost as a "reference for quantifying economic compensation and basic contract value, as determined in accordance with article 17 of Legislative Decree no. 422 of 19 November 1997, was included under art. 22 (6) of the draft Legislative Decree on "Consolidated act on local public services of general economic interest"- Draft Legislative Decree referred to in Articles 16 and 19 of Law no. 124 of 7 August 2015, no. 124.

network effects, plus a reasonable profit margin, the operator receives **financial compensation**, subject to the achievement of at least the minimum threshold of the cost coverage ratio as defined by law (Art. 19 (5) of Legislative Decree no. 422/1997, as amended).

Under EU law, this compensation shall be calculated so as to avoid over-compensation and ensure adequate compensation, as provided for in Measures 12, 13 and 14 of Decision no. 49/2015. Compensations may not exceed what is necessary to cover the net costs incurred for compliance with public service obligations, taking into account the revenue generated therefrom, plus and a reasonable profit. In particular, for rail and road transport, account shall be taken of article 4 (1) (b) of Regulation (EC) No 1370/2007 and Annex, in addition to the above-mentioned Communication.

The arrangements to cover monetary compensation and, in general, to fund PSO are dealt with in the following paragraphs of the Measure.

Paragraph 7

At present the most widespread method of PSO financing is **cross-financing** which characterises the ‘minimum services’ referred to in article 14 of Legislative Decree no. 422/1997.⁶ This principle is outlined more explicitly in EU law, where the Communication on interpretative guidelines concerning Regulation (EC) No 1370/07, under paragraph 2.2.5, refers to the so-called “*network effects*”⁷ and to the “*cross-financing between more than cost-covering services and not cost-covering services*”, so as to allow a “*cost-effective*” provision of transport services. It should be noted in this respect that this principle, which allows for the inclusion of positively remunerated services into a service contract too, does not apply in the case of transport services of national interest which are financed directly by the Government (cf. below).

Paragraph 8

As an alternative to the two methods of “direct” financing and “cross-financing” mentioned above, the Measure identifies other possible solutions for cost coverage. Actually, the competent authorities may use for this purpose the resources arising from the application of: i) specifically targeted levies; ii) levies or increased charges payable by the operators of transport services or authorised complementary services in a market system, such levies being especially provided to transfer the positive financial network effects to the services subject to public service obligations.

In both cases, pre-requisites for the application of taxes, levies or surcharges are the **network effects**, referred to in the above-mentioned Commission Communication, this being the same principle underlying cross-financing, as examined above, and, in general, the environmental externalities of other transport services. **Levies on operators** of services in a

⁶ The scope of service contracts for the award of local and regional transport services includes both remunerative ($cr > 1$) and non-remunerative ($cr < 1$) services, so as to achieve in both cases an average profitability coefficient of at least the minimum objective (whether this is equal to that laid down in Legislative Decree no. 422/1997 or any other threshold established by the service provider).

⁷ “*The geographical scope of public service contracts should enable competent authorities to optimise the economics of public transport services operated under their responsibility including, where appropriate, local, regional and sub-national network effects. Reaping network effects allows for a cost-effective provision of public transport services due to the cross-financing between more than cost-covering services and not cost-covering services. This should in turn enable the authorities to achieve established transport policy objectives whilst guaranteeing, where applicable, the conditions for effective and fair competition on the network, for instance, potentially for some high-speed rail services.*” Cf. European Commission, *Communication 2014/C 92/01 on interpretative guidelines concerning Regulation (EC) No 1370/2007*, published in the Official Journal of the European Union of 29 March 2014.

market system (or commercial services), too, are based on the rationale that they indirectly benefit from the provision of services subject to PSO.

The first case refers to the use of revenues arising from the application of specifically targeted levies such as road pricing, either as congestion charge or pollution charge. Besides allowing to pursue objectives of sustainable mobility (e.g. internalisation of external costs such as congestion and pollution) and to finance transport infrastructure, they could well ensure revenues for services under PSO. The Italian legislative framework has established general provisions on specifically targeted levies for provinces and metropolitan cities, although the relevant implementing regulations are still pending.⁸ On the other hand, with respect to the charging of access to city centres⁹ aimed at a number of public objectives, there are cases where local authorities have allocated the resources so obtained (also) to the financing of the local public transport system.¹⁰ Therefore, there is room to enhance the tools provided by existing legislation by allocating such resources to the financing of service contracts, including through the establishment of road pricing systems.

With regard to the second case referred to under (ii), the ‘increased charge’ option was already introduced into Italian law by article 12 (12) of Legislative Decree No 112 of 15 July 2015 establishing a surcharge in case of operation of medium and long-distance passenger services, which are not provided under public service contracts. Income from the surcharge may be used to an extent not exceeding the costs incurred in the discharge of public service obligations, for universal rail services of national interest subject to PSO, taking into account the relevant receipts and a reasonable profit for discharging those obligations, as laid down in the following paragraph 13 of Article 12 of the Legislative Decree. Indeed, the surcharge was already governed by article 21 of Decree-Law No 98/2011, but was never applied as the expected implementing decree was not issued.

Financing arrangements as an alternative to cross-financing were further indicated because cross-financing may have negative effects on the dynamic efficiency of the transport system - on this issue particular attention is required from the Authority, as well as static efficiency. Actually, **the inclusion of all services with different profitability affects the possibility of the commercial management of those with positive profitability** and their integration with other services not subject to PSOs, as well as, in general, the development of different management and awarding arrangements.

A commercial management, outside the constraints imposed on a service contract, may allow to provide differentiated services, including in combination with others, at prices which are consistent with the willingness to pay of potential users and with other characteristics (as listed in Measure 5 by way of example), to carry out discriminatory charges and revenue management practices which are related to dynamic pricing policies. These policies should correspond to a significantly increased revenue from charges as compared to that which could be achieved under a PSO system – which should serve as a basis to proportion the levies referred to in the Measure for the purpose of PSO funding, including when it is

⁸ Articles 20 (2) and 24 (6) of Legislative Decree No 68/2011 refer to regulations to be adopted pursuant to Article 17 (2) of Law No. 400/1988, in agreement with the standing conference between State, cities and local authorities, to regulate the specifically targeted levy for provinces and metropolitan cities, respectively, by identifying specific institutional purposes to establish the a.m. levy.

⁹ Cf. Article 7 (9) of Legislative Decree No. 285/1992.

¹⁰ Cf. the case of Milan restricted traffic zone, where paragraph 3 of Decision No 588 of 27 March 2013, contains a reference to the allocation of funds “*arising from the monetisation of externalities generated by private traffic for the purpose of implementing upgrading, protection and development of public transport networks [...]*”, together with other purposes (“soft mobility”, policies to reduce pollution, etc.).

assumed that they result in an increase in collective mobility, to the detriment of the private one.

The fact that commercial services, too, would finance, albeit indirectly, public service obligations allows a better understanding of the proposed definition of Scope (cf. “Definitions”), as it is meant **that the coincidence of the set of services financing PSO and the purpose of service contracts is not always checked**, as appropriate consideration may be also given to services which are not included in a service contract, but which contribute to the economic equilibrium thereof indirectly, through appropriate levies (cf. [Appendix 1](#)).

Papragraph 9

With reference to the above, it should be understood that public service obligations can be fulfilled outside service contracts, too, through services that do not require compensation, or even through **direct compensation of users**, which may replace entirely the operator’s direct compensation or be complementary thereto. Whereas the above-mentioned financing arrangements are borne on the supply side by entities that are either directly or indirectly related to PSO services, direct compensation operates on the demand side; they may be recognised by the competent authority having regard to the subjective characteristics of the users themselves, with reference to verifiable economic distress, disability and reduced mobility, professional or non-professional status, or other characteristics relating to the places of origin and destination of the users’ journey and to the reasons for their travelling.

The financing arrangement at issue may consist in the issue of dedicated vouchers, in rebates upon payment of the ticket price or in the reimbursement of part of the ticket price after purchase, given by the difference between full cost of service and preferential charge or season ticket in relation to pre-determined income conditions (e.g. in Brazil, a contribution for the use of public transport is granted to the employee by the company to cover extra costs, this contribution being paid if the season ticket price exceeds 6 % of the salary), professional (e.g. unemployed) or non-professional status (e.g. students) or disability. Vouchers work as a discount or reduction of the ticket price which is granted to persons holding the necessary requirements as established by the competent authority with respect to the social policy and transport objectives it intends to pursue. They have the advantage to be compatible with market opening objectives since users are free to choose the operator they want to use at discounted prices. In any case, the granting of vouchers should draw the funds to cover its cost from sources other than the National Transport Fund (*Fondo Nazionale dei Trasporti - FNT*), as referred to in Article 16a of Decree-Law No 95/2012. In this regard, the critical issues reported as to the use of vouchers under legislation do not appear to be unfounded. Indeed, the current FNT regulation does not seem to allow for the possibility of allocating resources for public transport directly to users. This is supported by paragraph 3 of Article 16, where it is referred to the inter-ministerial decree aimed at “*distributing and transferring*” the resources of the Fund to regions, as well as paragraph 4, last sentence, which provides for the review of “*service contracts*”, following the re-planning of services related to fund distribution.

To complete the overview of PSO financing instruments, it is noted that it would be desirable for **the legislator to implement the financing instruments** which are already covered by primary legislation, or amend existing legislation, so as to allow the competent authorities to use a more exhaustive and complete set of PSO financing instruments as compared to the existing. Indeed, the alternative arrangements cause less distortions in the market and could therefore be better compatible with public policy objectives of market opening and increased efficiency. In this context, it is also worth mentioning that only in the rail sector is it provided for the possible use of compensation payments in the case where another operator intends

to operate on a traffic route which is already covered by a public service obligation and this may jeopardise the financial equilibrium of the service contract.¹¹ It would therefore be desirable to extend this system to the other modes of transport, through appropriate innovation of the relevant legislation.¹²

Paragraph 10

With regard to the above, the Measure provides that, when a competent authority appropriately justifies it cannot apply the cross-financing and/or alternative financing arrangements considered, including the granting of the exclusive right, positively remunerated services, which are likely to be operated in a free-market regime, may be included in a service contract. This provision, which should be read in conjunction with those mentioned above, states the principle that commercially-oriented services, which are not typically intended for commuters or for users for which it is not required to ensure charge affordability, as further illustrated below, should be included in service contracts for the above-mentioned purposes of efficient allocation only if they are duly justified. Their exclusion from the scope of the service contract affects in no way the possibility to subject these services to contributions or levies aimed at financing at least part of the public service obligations.

The services that may be included in service contracts with proper underlying justification are, among others, **“direct” transport services** connecting urban centres with one or more transport infrastructures, which are connected with or are part of a national network (port authorities¹³, airports of national interest¹⁴ and *platinum, gold and silver* railway stations¹⁵), that could be offered at market price under competitive conditions. In any case, it should be considered that such services could have completely different characteristics as compared to other services included in the service contract, including those pertaining to rolling stock and, therefore, not be able to generate economies of scale.

It is further possible to consider in this context both municipal and inter-municipal **scheduled transport services**, which may be allowed by municipalities to be carried out throughout the territory or on pre-determined routes and for pre-determined periods, also by persons who satisfy the necessary technical and professional requirements and, therefore, **not on an exclusive basis**, pursuant to Article 12, (1) of Decree-Law No. 223 of 4 July 2006, referred to in the same Measure.

Paragraph 11

In order to ensure maximum transparency on the choices made, the Measure provides that, at the end of the procedure for assessment and definition of the arrangements for PSO financial coverage, the competent authority illustrates the different options considered (in terms of overall funding and any compensation of the operator) and the reasons therefor, in

¹¹ See Article 12, paragraphs 6 et seq. of Legislative Decree No 112/2015 and, in particular, paragraphs 10 and 11.

¹² See AGCM IC47: *Competitive conditions in the markets for local public transport*, paragraph 334, p. 139 and AS1137, *Proposals for competitive reform for the purpose of the annual law on market and competition (2014, p. 17)*.

¹³ Draft Legislative Decree concerning “*Re-organisation, rationalisation and simplification of the rules on port authorities referred to in Law No 84 of 28 January 1994*” (Government act No 303/2016 submitted to parliamentary opinion) identified fifteen port authorities (cf. list available at the following link: http://www.mit.gov.it/mit/mop_all.php?p_id=26040).

¹⁴ As referred to in Presidential Decree no. 201 of 17 September 2015 on “*Rules on identification of airports of national interest, pursuant to article 698 of the Navigation Code (15G00213)*”.

¹⁵ Based on RFI classification available at the following link: <http://www.rfi.it/rfi/LINEE-STAZIONI-TERRITORIO/Le-stazioni/Vivibilit%C3%A0-e-fruibilit%C3%A0/La-classificazione-delle-stazioni-ferroviarie>, contained in the Network Statement (NS).

an **ad hoc report**, which is prepared before adopting the administrative act identifying the Lots to be awarded or before initiating the awarding procedures and which is published on the competent authority's website. The report shall be sent to the Authority for the purpose of obtaining its opinion to be issued within 45 days, after which, in case no opinion is delivered, the process may be continued. In this respect it is noted that the report is sent only in the case of railway services pursuant to Article 37 (1) of Decree Law no. 1/2012, which entrusts the Authority with a more mandatory power as to the Scopes and their financing. This is not required in the case of other transport modes, for which, pursuant to paragraph 37 (3) of Decree-Law No. 201/2011, the competent administrations have the option, and not the obligation, to ask for an Authority's opinion.

Paragraph 12

Finally, under the Measure competent authorities are entitled to apply, in the case of a tendering procedure, the consultation referred to in Measure 2, (6) of Authority's decision No 49 of 17 June 2015 as for the choice of PSO financing arrangements and the following identification of the perimeter (or extension) of the lot to be awarded, in addition to the objectives assigned by the same measure. This is a possibility in the sense that Decision 49/2015 does not impose a pre-determined content of the consultation procedure in relation to the different content and complexity of the services to be tendered, even if it is to be considered the consultation procedure itself shall be always carried out. Further, paragraph 12 refers to the need that, in any event, the extension of the tender lot and the services concerned within its perimeter ensure contestability of the tender procedure, pursuant to Measure 6. Similar reasons of contestability and market development should be taken into account in the case of direct or in-house award.

Measure 5 - Criteria for charge determination and updating

The Measure introduces general principles for the determination of charges for transport services subject to public service obligations, which apply to all modes of transport. In particular, the Measure is aimed at maximising revenues from charges, without prejudice to the minimum standards of service quality established by the Authority and the protection of passenger rights, considering that criteria have been already laid down in the previous measures for optimising the supply of services. In this way, service operators are in a position to act on the two levers of adequate supply, which in any case does not entirely (always) fall within the public service scope, and charges.

As a first step, for the determination of the charges to be applied to users, the Measure refers to the need of the availability of appropriate information on mobility demand, which is already covered by Measure 1. As pointed out herein, the competent authorities, or their instrumental entities, are responsible for performing the relevant **inquiries** (included here is also checking the information produced by third parties) by observing the time- and space-related characteristics of flows and the relevant reasons for travelling and by defining the willingness to pay of the users concerned.

It should be noted that this responsibility is entirely related to the fulfilment of the institutional functions of service planning and to the power of setting charges which is entrusted with the competent authorities (in particular, Regions and autonomous Provinces); on the other hand, only through these data and information is it possible to take account of PSO and meet actual mobility needs, while maximising revenues.

In this respect, data arising from the observation of the **time series** on the number of tickets sold and on the proceeds arising from the routes included in existing public service contracts, which may be used to supplement the observations referred to as above or in the absence

of such observations, may only provide static information or give an indication of the actual demand on the basis of the existing supply, but not of the ‘potential’ supply, which may be referred to other modes of transport, either private, public or collective, or may abstain from moving, thereby diverting possible financing sources for PSO services.

The concept of **willingness to pay** referred to in paragraph 3 of the Measure deserves to be clarified. This may be defined as the maximum amount a consumer (traveller) is prepared to pay in order to obtain a good or a service which it is not in its availability. It is influenced by consumer price elasticity, dynamics of service quality or price/quality combinations and elasticity of the service supplied (in terms of supply per hour) compared to alternative modes (elasticity of substitution). Since the difference between willingness to pay and actual charges applied in the transport sector produces a consumer surplus, the charging criterion proposed in the Measure specifically seeks to reduce that surplus to the benefit of the widest possible taxpayer community, by reducing public contributions and making the financing arrangements of Scopes more efficient, as provided for in the decree establishing the Authority.

Indeed, a single charge which is not differentiated according to the willingness-to-pay may produce **negative redistributive effects**, by transferring the surplus from groups of passengers with low income and low ability to pay to groups with greater capacity. The same public service scope might, indeed, include services which, despite being characterised by PSO, are used also by groups with greater willingness-to-pay in relation to higher income levels and, in some cases, available to travel at different times than commuters. Therefore, these users should be applied higher rates or be offered different types of travel passes, including differentiated, other than those provided to commuters.

These considerations have specific application and development as for particular population categories, which are or may be defined as “weak” or “deserving protection”, and move regularly for study purposes, or as they are characterised by (social and economic) distress or disability/reduced mobility. Without prejudice to the possible application of direct compensation to these users (cf. Measure 4), Measure 5 (2) provides for the definition by the competent authority of **preferential rates or exemptions** for existing travel passes within the Scope concerned, to be defined also in line with the nature of the journey (distance, timetable, travel times), by favouring their charging integration, if they refer to different services and operators.

The advisability of adopting a criterion of charge differentiation, in order to reduce overall financial compensation, is reiterated in paragraph 3 of the Measure, including regarding user categories other than those referred to in the preceding paragraph, through the analysis of **cost factors** (e.g. distance in kilometres - commercial speed and related travel times), quantities and modes of travelling in a given time-frame and/or slot, quality of services provided and type of service on board (including for taking into account the different reasons for travelling), as well as of the possible use of different distribution channels (e.g. on-line purchase). By way of example, in the morning and evening slots, “customary” users of short-distance journeys are the commuters, primarily for reasons related to education and employment: in this case, access conditions are to be protected through sustainable or “affordable” charges; as such movements are routinary and foreseeable, this type of users is generally interested in the supply of long-time season tickets and/or travel passes (monthly, annual, seasonal school, etc.).

In this context it is worth pointing out that the competent authority should provide, from the early stages of definition of the Scope, for an **integrated charging system** allowing accessibility with the same travel passes (single ticket and/or through ticket/travel card) to

the services offered by various operators, including through an appropriate supply of **intermodal solutions** (both structural and operational) to promote accessibility and interchange (between different modes and types of transport) in the context of the service network. For this purpose, the competent authority may assess the need to develop appropriate investments in technological innovation, e.g. by adopting appropriate automatic fare collection system) (AFCS) or automatic passenger counting solutions.

The application of different types of preferential charges compared to the standard charge (still considering the PSO system) will produce a **loss of income** for the service operator (paragraph 4 of the Measure), for which, without prejudice to the calculation methods set out in Measure 4, the competent authority shall provide an adequate compensation system.

In this framework, the Measure does not define a procedure for quantifying the loss of income, as on the point at issue it is intended a specific process be identified by the competent authorities; however, it is highlighted that, for the purpose of calculating the loss of revenue, reference should be made to the final number of travel passes falling within the type of users under preferential or exempted regime at the end of each year, on the basis of specific verification procedures defined in the public service contract, also with a view to minimising the risk of litigation contractual risk (in net cost contracts, where the commercial risk is transferred to the operator).

Consistently with the other provisions of the Measure, paragraph 5 clearly indicates the interrelation of applicable charging levels and features (normally governed by contractual constraints) relating to service quality standards and users' rights.

In this respect, the provisions under Measure 4 above are reiterated, as for the compliance with quality standards: any options offered to users shall be at least equivalent to the minimum quality standards established by the Authority; similarly, the minimum user rights shall be defined in accordance with the same paragraph 2 (e) and in accordance with the regulatory framework established by EU Regulations and the corresponding national legislation, as mentioned within the Measure under consideration.

Without prejudice to the above, in order to determine appropriate charging levels, paragraph 6 of the Measure reiterates that, at least for services which are not of national interest, the level of cost coverage ensured by the **revenues from charges shall cover at least 35% of the relevant costs** (coverage ratio) or another minimum threshold as identified in national legislation (cf. article 19 (5) of Legislative Decree No 422/1997). Further, under the Measure (paragraph 7) the competent entities shall provide for the **regular charge updating** in order to enhance efficiency and cost-effectiveness of the services pertaining to the Scope; in this context, the **application of the price cap principle**, referred to in Measure 19 of Decision no 49/2015, has been extended to all transport services covered by the Measures referred to in Annex A, hence including medium-long distance rail passenger services and regional maritime services. For details on the method and application of the price cap principle, reference is made to above-mentioned Decision no. 49/2015 (cf. in particular, Measure 19, (2) and (3)).

Measure 6 - Criteria for the identification of lots of transport services to be awarded on an exclusive basis

The third step of the methodological approach laid down in this process provides that, following the identification of the Mobility areas and the definition of the Scopes of the service (referred to above), the competent authority may identify the (related) lots to be awarded.

For the purpose of defining the Lots (territorial dimension and extension of related infrastructures and networks concerned, modes and types of transport services involved, necessary investments) the following is of interest:

- “**minimum optimal size**” of the service provision, which results in maximum efficiency of the undertakings that may participate in the awarding procedure, as specified below;
- Issues of **contestability of the tender**, for the purpose of successfully completing the competitive selection, i.e. maximum participation of operators in the tender procedure and minimisation of the public funding share needed to cover PSO.

It was thus established that the award lot be identified by considering the foregoing items or conditions in the above order.

In particular, by stipulating that the lot to be awarded cannot lie below the “**minimum optimal size of the service provision**”¹⁶, taking into account any applicable national legislation, it is intended to retain the possibility for operators to participate in the awarding procedures, be they by tender or through direct or in-house procedures, under efficiency conditions insofar as it is possible to exploit long-term economies of scale. This ensures that compensation to be paid to service providers be established at a long-term efficiency level, but only if other conditions are met.

The other condition to be checked at the same time is the **contestability** of the lots to be awarded. The Measure moves from the assumption that economies of scale are a necessary, but not sufficient requirement for the purpose of scoping the lots, insofar as the whole range of factors affecting the tender contestability are of significance, this being an essential, and therefore necessary and sufficient requirement for its successful outcome, in terms of efficiency/effectiveness and hence cost-effectiveness for public finance. Certainly, an “efficient” size of the award lot facilitates the participation of operators capable of making sustainable tenders (“below-scale” operators would bear higher production or administrative costs), but they shall be high in number, as the lower the number of

¹⁶With regard to the identification of the minimum optimal size of production, economic studies on road transport, both urban and suburban, in the Italian and international context, agree on the absence of long-term economies of scale which would tend to be exhausted with modest size. The evidence is less conclusive with regard to the threshold beyond which economies of scale begin to be exhausted: in some studies this is estimated at 4 million km per year, while in some others it corresponds to the areas of small and medium-sized cities, which would suggest it would be advisable to adopt provincial lots integrating urban and interurban local public transport (in this regard, cf., *inter alia*, Lem-Reply (2011), “Gare regionali e gestori unici: una scelta efficiente?”, A. Boitani et al. (2013), “Do competition and ownership matter? Evidence from local public transport in Europe”, *Applied Economics*, 45(11), 1419-1434) and the recent study of Avenali A. et al. “Un modello per la determinazione del costo standard nei servizi di trasporto pubblico locale su autobus in Italia”, *Economia e Politica industriale* (2014). Conversely, and for the sake of completeness, other studies including enterprises of large Italian cities tend to identify significant economies of scale and integration both for medium-sized enterprises and for large enterprises, whatever the type of service offered (urban, suburban and mixed), and suggest that it would be appropriate to integrate urban and suburban services for medium-sized cities. (in this regard cf., in particular, Cambini, C. et al. (2007), “Struttura di costo e rendimenti di scala nelle imprese di trasporto pubblico locale di grandi dimensioni”, *Rivista Italiana degli Economisti*, Vol. XII).

With respect to the identification of the minimum optimal size in the railway sector, available studies at EU level indicate a size ranging from 150 km to 1,000 network km (J. Lévêque “Allotissement et rendements d’échelle ferroviaires - application aux réseaux de transport ferroviaire”, *Économie et prévision*, 2007, available at: <http://halshs.archives-ouvertes.fr/docs/00/10/56/08/PDF/rt4.pdf>). As for Italy, a study carried out for the Ministry of Infrastructure and Transport for the assessment of standard cost, would indicate the presence of economies of scale in case of a production of approximately 40 million train*km, which is mainly due to the possible more intensive use of rolling stock with the increase in size and level of interconnection of the underlying network. (Source: Boitani A. SIPOTRA conference speech “Riorganizzare le ferrovie italiane verso la quotazione in borsa: opinioni e modelli a confronto”, Rome, 22 January 2016).

competitors, the greater the risk of collusive and “opportunistic” behaviour (in the economic sense), with the result that tenders will not reflect efficient costs correctly.

The lack of potential competition, which *inter alia* would not make it possible to verify the possibility of replacing the undertaking in case of non-compliance, would rule out another condition for the optimal functioning of tender procedures according to the economic theory. In the following tender round, where the potential market has not developed in the relevant lot territory, the incumbent would win once again and would have no incentive to achieve the efficiencies that an optimal design of the Lot would certainly allow, whereas it becomes in any case difficult to replace the successful tenderer, including in case of bankruptcy or non-compliance (lock-in effect).

The awarding of an entire Mobility area to few large operators over the long term (even in case of direct or in-house award) may definitively exclude from the market smaller, but equally efficient operators possessing a growth potential that would be able to compete in the following tender round. For this reason, the award lot has been described as a defined service based on geographical and/or modal criteria which optimises – under the same tender conditions as those defined in the tender notice - the number of participants (i.e. tender contestability), ensuring efficiency and effectiveness of the service in relation to the existence of economies of density and/or scale. Verifying the existence of those economies cannot outweigh the need to evaluate the existence in the potential market of undertakings which are able to submit tenders. As an example, if in the case of an award lot corresponding to a very large metropolitan area, the tender is represented both by road and rail services, the combined effect of large size and co-modality could discourage the participation of more than one operator in the reference market, despite the existence of any economies of integration, which could be assessed upon submitting tenders by the same operators concerned.

For these considerations, paragraph 2 of the Measure provides that the competent authorities undertake an **analysis of the potential market**. This shall assess – for different scenarios concerning lot features and award design/project - the number of businesses which satisfy the necessary requirements and are in a position to submit a tender, particularly with reference to the ownership and availability of rolling stock and infrastructures for the provision of the service requested in the tender notice.

In this framework, information on the potential market may be derived from **desk studies of the relevant market** or sector. Alternatively, (including to supplement the information collected), the competent authority may include in the award procedure a specific stage of **call for interest** for the operators, who will be invited to express their willingness to participate in the procedure on the basis of a document, provided by the competent authority, describing the lot to be awarded. Such document should be sufficiently exhaustive as to the characteristics of the tendered services, including information about any necessary investment and about the choices made as for sizing of the lot. Such procedure can easily be included in the scope of the consultation referred to in Measure 2 (6) of Authority’s Decision No 49 of 17 June 2015 which, as previously recalled as to the financing arrangements (cf. Measure 4), may be used to check different aspects of the tender document.

It should be noted that the above “*ex-ante*” verification procedures of the potential market should avoid the risk of awarding the contract if only one tender has been submitted. For this purpose, in order to ensure the broadest possible participation of economic operators, the Measure provides two basic principles for the identification of the lots and their allocation so as to ensure the widest possible contestability and cost-effectiveness.

Paragraph 3 specifies that, if the essential mobility needs of a population within a Scope shall be fulfilled through implementation of transport solutions pertaining to different modes,

with particular reference to the co-existence of road and rail scheduled systems, the relevant procedure for awarding the service on an exclusive basis, through public service contracts, shall **identify more “modal” Lots** (for each system provided). This measure aims at avoiding the risk that the bundling of services provided in different modes, where in significant proportions (i.e. not where there is a very limited provision of service and/or a situation where one or more of the identified modal systems represents a negligible part of the overall Scope which may be sub-contracted to third parties), leads to discrimination of the potential participants in the awarding procedures in relation to their degree of diversification in contiguous transport areas. The inclusion of different modes (or even types) in a service Lot could exclude efficient operators which only operate in one of the modes provided. Further, as stated above, the Scope could include services supplied under a system of competition “in the market” (commercial services or authorised services) which as such may not be subject to a public service contract system and to an awarding procedure on an exclusive basis.

In addition, paragraph 4 provides that the tender notice or invitation letter shall include the possibility that competent authorities re-evaluate - in accordance with their power to withdraw, suspend or modify their own measures - the choice as to the definition of lots, in case a valid single tender or call for interest is submitted. In that case, any exercise of their powers to withdraw, suspend or modify their own measures may take place no later than the opening of tenders.

For the same reason of contestability, under paragraph 5 of the Measure under review, the geographic perimeter of the Lot shall include any essential or necessary **instrumental goods** for the performance of the service, or suitable locations for their construction, as identified in accordance with the criteria referred to under Measures 2 and 4 of Authority’s Decision No 49/2015, respectively (and under the technical and economic conditions of the tender notice). Access to such goods or suitable areas, as it was also found in the course of the consultations prior to the adoption of the a.m. Decision and by examining the tenders carried out or underway, is one of the main obstacles to the access of new operators, particularly in rail markets. Therefore, it is important these goods be included in the scope of the Lot and not, for example, in an adjacent Lot, where those goods are not accessible (i.e. based on the provisions of the already awarded service contract).

The last paragraphs of the Measure, aiming at further strengthening the methodological principles underpinning the definition of Lot, specify its relations with the associated concepts of Mobility Area and Scope (cf. [Appendix 1](#)), and reaffirm another significant aspect underpinning the identification procedure arising from a legal requirement, i.e. the concept of “economic coverage” of costs (*coverage ratio*), already dealt with both in Measure 5 and in Measure 6.

Definitions

The regulatory measures end with a list of the relevant applicable “definitions”.

Compared to the corresponding section of the Annex to Decision No 83/2016, the number of definitions has been reduced in the interest of conciseness and for consistency with the content of the measures. For this reason, the definitions are limited to those actually required for a proper understanding of the text, although they are not widely or commonly used, and certain concepts have been rephrased in order to clarify the subject-matter and purpose of the regulatory measures, including with respect to the relevant legislation and the requests submitted during the consultation process.

In particular, the following definitions have been reviewed:

- **Scope of public service**, by highlighting the key concept of “comprehensive system” of (passenger) transport services and its purpose of satisfying the “*citizens’ essential mobility needs*”, as already covered by Legislative Decree No 422/97 (cf. article 16 (2));
- **Mobility area**, by specifying the merely “territorial” nature (including for the purpose of clearly distinguishing it from the “transport” nature of the concept of Scope on the supply side) and by identifying its characteristics which are determined by competent authorities in the context of transport planning and on the basis of a specific analysis of “potential” demand for mobility;
- **Award lot**, so as to clearly explain distinctive (and inter-related) features with respect to the concepts of Scope and Mobility Area set out above.

The section has been further reviewed, in particular by including new definitions (i.e. *network effects, negative externalities*) and specifying the parameters or indicators used in the development of the methodology (i.e. *willingness to pay, degree of urbanisation, load factor*).

Finally, it was considered appropriate to expand upon the subject of travelling length and duration and related feasible transport solutions, with particular reference to the areas which are characterised by “weak demand” (as defined in Measure 2), by conceptually differentiating the definition of short-distance journeys from that of medium- and long-distance journeys.

APPENDIX 1

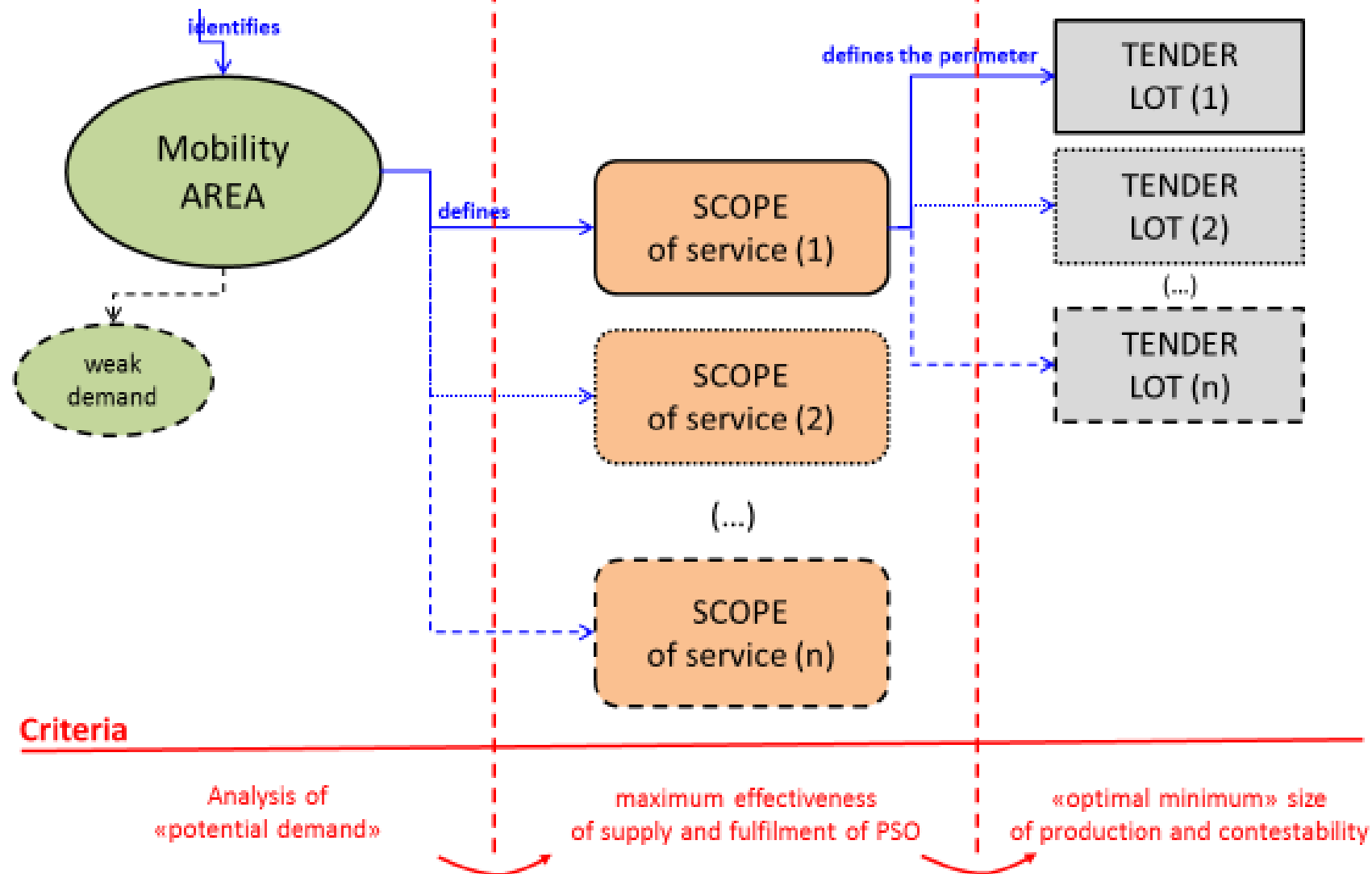
COMPARATIVE OVERVIEW - definitions

| | MOBILITY AREA | SCOPE OF SERVICE | TENDER LOT |
|--------------------|---|--|--|
| Concept | <p>Territorial area where self-containment of mobility flows is determined, as observed based on the analysis of the "potential demand" of the population</p> | <p>Comprehensive system of public transport services, including different modes and types, serving the purpose of meeting PSO and the citizens' essential mobility needs</p> | <p>Specific system of transport network/services, as identified on the basis of geographical and/or modal criteria, so as to encourage maximum participation of operators in the awarding procedure and minimise public financing, under the same efficiency and effectiveness of production</p> |
| Application | <p>Identification of a «uniform» (seamless) area on the basis of social and economic, demographic and behavioural features of the «demand for potential mobility», as measured through <i>ad hoc</i> surveys and/or simulations carried out by the competent authorities; (one or more) «weak demand» areas can be identified therewithin</p> | <p>Definition of one or more modes and/or types of transport service, with the aim of optimising efficiency, effectiveness and cost-effectiveness of the solutions to be adopted, for the purpose of meeting the demand for mobility as observed in a territory and the relevant PSO</p> | <p>Definition of a specific network of transport services (and of the related modal, functional and charging interrelations), based on the analysis of market conditions, for the purpose of identifying the «optimal minimum» size/structure of production and contestability</p> |

APPENDIX 1

Work-Flow of the procedure

The competent authority



APPENDIX 1

Modes of definition of the Scope for fulfilment of PSO

