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Working Party No. 2 on Competition and Regulation

Competition and Regulation in the Provision of Local Transportation Services – Note by Sweden

20 June 2022

This document reproduces a written contribution from Sweden submitted for Item 3 of the 73rd OECD Working Party 2 meeting on 20 June 2022.

More documents related to this discussion can be found at
<https://www.oecd.org/daf/competition/competition-and-regulation-in-the-provision-of-local-transportation-services.htm>

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1. Introduction

1. In 2018, the Swedish Competition Authority published the report “Competition in Sweden 2018”, which analysed competitive conditions across a large number of different industries, and included three chapters dedicated to passenger transport; Public transport,¹ long-distance passenger transport by air and train,² and taxi.³ This contribution is largely based on the study presented in the chapter on public transport. However, while that chapter was based on data for 2012–2016 this contribution has been updated with data for 2017–2020.

2. Models in place and questions of governance

2. The regulation of public transportation is harmonised within the European Union, and the model for local and regional public transport in Sweden is based on the EU public transport regulation.⁴ In the regulation, public transport is defined as passenger transport services of general economic interest that are offered to the public continuously and without discrimination. Public transport thus includes all modes of transport, be it by road, rail, water or air.

3. Both commercial and subsidised public transport operates in Sweden. Commercial public transport is operated by a private company on fully commercial terms, i.e. without public funds. Subsidised public transport is instead handled by the regional public transport authorities or the Swedish Transport Administration and is covered by public transport obligations. The fact that subsidised public transport is administrated by regional public transport authorities or the Swedish Transport Administration does necessarily mean that it is carried out in-house. Most commonly it is, after procurement, performed by a private company that receives compensation from regional public transport authorities or the Swedish Transport Administration. Subsidised public transport is financed by a combination of public funds and ticket sales.

4. The markets for passenger transport within the various modes of transport have gradually been opened up to competition. On 1 July 1992, the market for domestic scheduled air services was opened up. In 2010, the market for long-distance passenger transport by rail was opened up and it became possible for companies other than the incumbent SJ to enter the market. In 2012, the final restriction that prevented commercial bus companies from operating local and regional public transport was abolished.

¹ Konkurrensverkets rapport 2018:1 - Konkurrensen i Sverige 2018 - Kapitel 24 Kollektivtrafik (only in Swedish).

² Konkurrensverkets rapport 2018:1 - Konkurrensen i Sverige 2018 - Kapitel 25 Långväga persontransporter med flyg och tåg (only in Swedish).

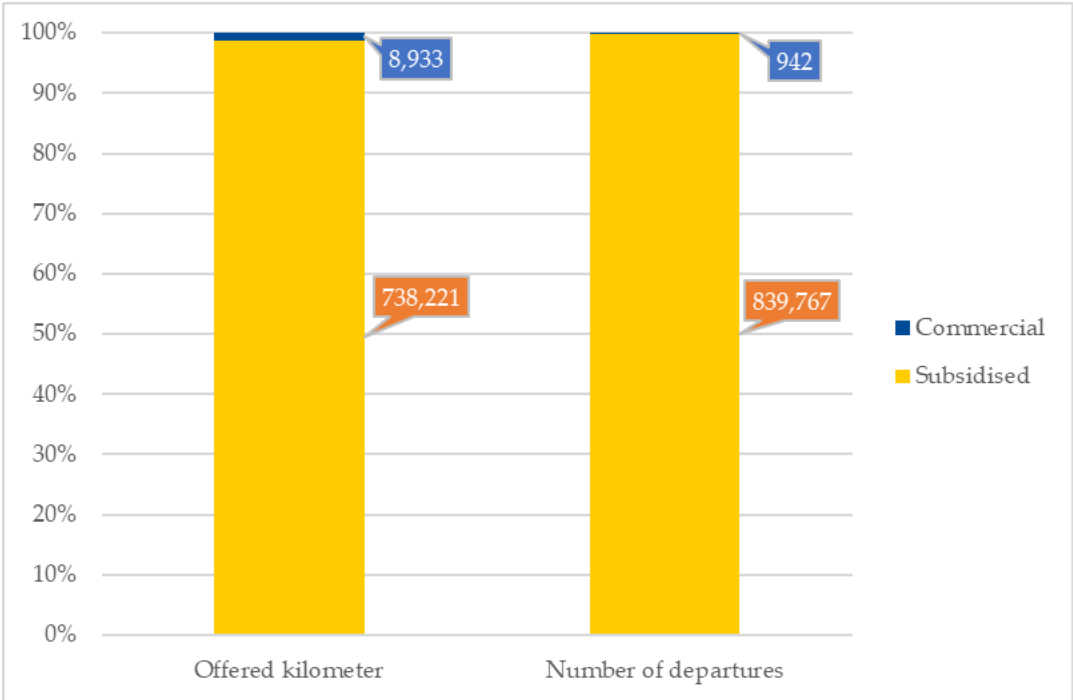
³ Konkurrensverkets rapport 2018:1 - Konkurrensen i Sverige 2018 - Kapitel 26 Taximarknaden (only in Swedish)

⁴ Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and road.

3. Commercial and subsidised public transport

5. In 2012, an amendment was made to the Public Transport Act⁵ to open up the last part of the passenger transport market, namely local and regional public transport, to competition. However, ten years later the share of local and regional public transport operated on a commercial basis is still very small. Local and regional public transport is still largely provided by the regional public transport authorities.

Figure 1. Local and regional public transport by type of financing, 2020

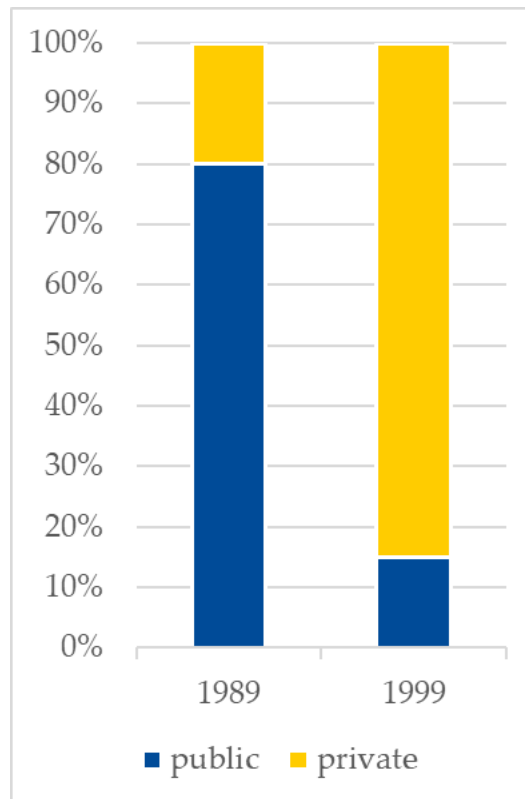


Source: Trafikanalys, Statistik 2021:25, Regional scheduled public transport 2020.

6. From 1989, municipal bus companies had to compete for the local and regional public transport market. In the next 10 years there was a dramatic shift of ownership of bus companies from public to private.

⁵ SFS 2010:1065

Figure 2. Ownership of bus companies



Source: Trafikanalys, 2022

7. Today, subsidised public transport is primarily a procurement market, even if some regional public transport authorities operate some public transport in-house instead of procuring an operator. In addition to the regional public transport authorities, the Swedish Transport Administration procures certain subsidised long-distance passenger transport. These include ferry traffic to the island of Gotland and some train and air routes that have a societal importance but which are not commercially attractive.

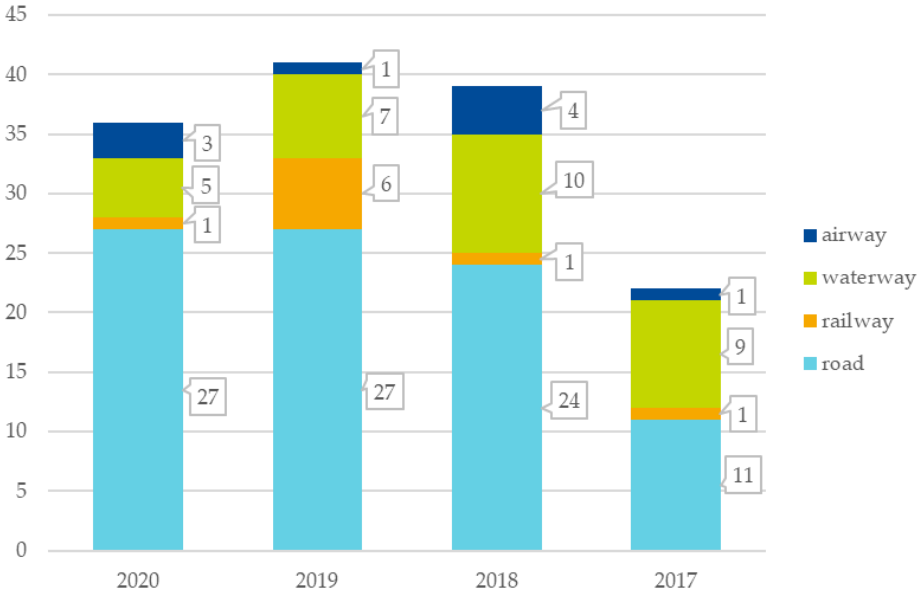
8. How public transport should best be managed is, however, a recurring topic of discussion. This is partly due to the fact that the area of public transport is affected by general trends in society about what public responsibility for a service entails, i.e. does it mean that the public sector must perform the service or that the public sector must ensure that the service is available? Over time, perceptions thus change as to whether it is considered appropriate to perform services in-house and under what conditions it is deemed more appropriate to procure the same services. Another reason is the fundamental importance of public transport. When procured actors fail to meet their commitments, this can cause serious problems.

4. Public transport procurements⁶

9. Public transport procurements cannot easily be distinguished from other procurements because there are no CPV-codes that are used only for public transport procurements. The Swedish Competition Authority has produced some information based on notified public transport procurements⁷ that can roughly function as indications when compared with notified public procurements in general. A total of 138 procurements were identified between 2017 and 2020 as public transport procurements.⁸ Just over two thirds of these procurements concerned road traffic and one in five were sea traffic, while less than one in ten of these public transport procurements concerned train and air traffic respectively.

10. In the SCA’s report from 2018, there were 133 public transport procurements between 2012 and 2016. At that time, the proportion of procurements in road and sea traffic was equal and amounted to four tenths each, while public transport procurements concerning train and air traffic were on the same level as 2017–2020.

Figure 3. Number of notified public transport procurements based on mode of transport, 2017–2020



Source: Mercell (data 2021), and SCA (processing 2022).

⁶ The information on procurements of publicly operated public transport includes both local and regional as well as interregional and in some cases international passenger traffic within all four modes of transport; i.e. road, rail, shipping and aviation.

⁷ The processing is based on information purchased from Mercell about public procurement notified in accordance with the four procurement acts and the Public Transport Act. In order to identify public transport procurements, certain standard assessments have been made. This may mean that the material lacks certain public transport procurements or that a procurement have been included even though it does not concern public transport.

⁸ Please note that the following is based on the number of notified public procurements. It is likely that analysis of values would give a different picture, but at present there is no reliable data that enables such analysis.

11. When statistics on these public transport procurements are compared with general statistics⁹⁹ on notified public procurements from 2021 some differences can be noted.

- The public transport procurements are in general of a higher value than notified public procurements in general. Almost nine out of ten of the public transport procurements studied were above the thresholds for these procurements to be covered by EU procurement rules. Among public procurements in general, only barely half of the notified procurements are above the thresholds for EU procurement rules.
- Framework agreements are very unusual among public transport procurements even though procurements for framework agreements in general are very common in Sweden. Only two of the studied public transport procurements were framework procurements. Among all notified public procurements, about four out of ten each year were framework agreements.
- There are fewer tenderers in public transport procurements than in public procurements in general. On average, the public transport procurements studied had 3.3 tenderers while the average number of tenderers among all notified public procurements during the same period was 4.1–4.9. Of the public transport procurements studied, 73 per cent had two or more tenderers. Among all notified public procurements during the same period, just over 80 per cent had at least two tenderers.

12. This is in line with the results presented in the report produced by the SCA in 2018. In the report from 2018, the SCA could also compare the lengths of the contracts. Among all notified public procurements, 60–70 percent were for contracts that were 3–4 years long, including options of extensions. Among the studied public transport procurements, almost half concerned contracts that were longer than five years.

5. Public transport in practice

13. Considering that public transport services are partly paid for by society and the fees often come from season tickets that provide access to the entire public transport network, the willingness to pay for parallel public transport lines can be assumed to be low. From that perspective, the limited impact of commercial public transport is not surprising. Commercially operated public transport lines need to find a niche that is not covered by the publicly provided transport network and is interesting enough for travellers to pay for it.

14. There is an acceptance among the public that long-distance passenger transport is a market where there can be several different players in different modes of transport. In contrast, when it comes to local and regional public transport, knowledge of (and acceptance of) the system of both public and commercial public transport seems to be lower. This can manifest itself in a lack of understanding as to why some lines are included in tickets sold by regional public transport authorities, but not others. This leads to a demand from citizens to move attractive but commercially operated lines into the subsidised public transport network.

⁹⁹ General statistics on public procurements notified 2017–2020 are published on the National Agency for Public Procurement's website, <https://www.upphandlingsmyndigheten.se/statistik-som-utvecklar-den-offentliga-affaren/fortsatt-okat-intresse-for-offentliga-upphandlingar/> (only in Swedish).

15. The Swedish Competition Authority has long pointed out that the conditions for commercial public transport need to be strengthened in relation to the public sector in order for commercial transport to develop.¹⁰ This requires, among other things, that regional public transport authorities take into account existing commercial traffic when deciding on public service obligations. Since the public service obligations essentially mean a worsening of the conditions for commercial public transport, it is necessary for special attention to be paid to such existing transport provision when making decisions. The commercial routes that have emerged should be safeguarded and those that have become attractive should not be moved into the public service obligation without careful consideration of the societal benefits of such a decision.

¹⁰ The Swedish Competitions Authority, Rapport 2018:1, *Konkurrensen i Sverige 2018*, chapter 24.