

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Working Party No. 2 on Competition and Regulation

**DISCUSSION ON METHODS FOR ALLOCATING CONTRACTS FOR THE PROVISION OF
REGIONAL AND LOCAL TRANSPORTATION SERVICES**

-- Turkey --

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1. In Turkey, market structure and regulations in local and regional transport services differ from each other. Thus, the topics will be presented in two separate sections.

1. Local Transport System

2. Within the boundaries of Turkey local transport system is usually provided by many transport modes and different vehicles, depending on the geographic feature, population and transportation needs of each province. Intra-city buses, minibus, taxi, service buses and in some cities subway trains, tramway, ferries, suburban trains, if any, are the main type of vehicles used for local transportation. Local transportation is an important issue especially in the densely populated big provinces of Turkey where both central government and local authorities are seeking to promote mass transportation.

3. Regarding the regulation of the market, both central and local authorities play the main role for providing and regulating the local transport needs of their territories. As to the passenger transport within the boundaries of a province¹, a provincial traffic commission -headed by the governor or deputy governor and composed of representatives from municipality, police force, gendarmerie, national education, road provincial directorates relevant chambers of Tradesman under the Turkish Chauffeurs and Automobile Drivers Federation and universities- is formed. For ensuring the traffic coordination within the boundaries of metropolitan municipalities, Transport Coordination Center (UKOME-TCC) organized under the Metropolitan Municipality and headed by the Mayor of Metropolitan Municipality plays the pivotal role. According to the Metropolitan Municipality Act No. 5216, municipalities have duties for preparing city transportation plan, planning mass transportation services and establishing coordination; determining the quantity of mass transportation vehicles, ticket fees and tariffs, the timing and routing of these services. They have also related with operating and delegating these services to third parties. For the intra-city bus services, both competition for the market and competition in the market structure can be created. Considering the transportation plan and population density in some cities where local authorities are unable to provide sufficient transport services, private intra-city buses can also operate in addition to the public bus services. In this situation, the routes that private intra-city buses work are determined by local authorities and distributed after a tendering process. Participants may bid for several routes. The services are usually awarded to the private sector for 10-15 years. The local authority may take a lump sum payment, may receive a yearly revenue based on the income of the private bus firms, or may use both collecting methods with a certain degree. After a tender process, the winners are chosen from the highest bidders and a contract is signed between the successful bidders and the local authority. The conditions regarding the quality of the service, terms for the routes, time schedules, prices, driver training processes and sanctions for unfulfilled conditions are all arranged within the contract. Both public and private intra-city buses can provide services on the same routes. In local transportation, route and time coordination is ensured by TCCs and the time schedule is prepared for preventing any overlapping to the extent possible. The prices of intra city transportation services except for taxis, minibuses, and service-buses are determined by TCC decisions, regardless of whether the services are provided by the local authority or by private firms.

4. In some cases, local authority completely withdraws from providing public transport services and transfers these services to private firms by contracting out. Similar to the competition in the market situation, the terms regarding the provision of the service are determined by the TCC decisions and a contract is signed between the parties.

¹ In Turkey, every city has its municipality administration. Some provinces that are bigger in terms of population and the level of urbanization are named as Metropolitan Municipality. Today, there are 29 Metropolitan Municipalities out of 81 provinces.

5. Opening local transportation services to competition certainly increases the service and vehicle quality. However, it is not possible to talk about strong competition between private and public buses since pricing, routing and service frequency terms are determined by TCC. Virtually, the main aim by opening the market for private parties is not to achieve competition in the market but to increase capacity for mass transportation.

6. In Turkey, taxi, minibus and service bus service are already carried out by private entities. As for the minibuses and taxis, these service providers are considered “tradesmen and craftsmen” and are represented by “drivers and automobile business chambers” nationwide. In addition to the intra-city buses working on the basis of regular frequency and specified line stops, there is another kind of transport mode called ‘minibuses’ which carries fewer passengers than buses but operates on a more frequent basis. The routes for minibuses are also determined by TCC, but the tariffs are set by the chambers of the minibus drivers. In practice, minibus prices are usually set close to the intra-city bus tariffs, sometimes they may be a little higher than the price of the bus services. Minibuses can also operate on the same routes as intra-city bus services. Turkish Competition Authority (TCA) has not dealt with this sector directly in any of its examinations so far.

7. Taxis are also important component of the local transport especially in the big provinces of the country. The number of taxis that can operate is limited through license-plate restrictions. This limitation is brought by the Decision of the Council of Ministers numbered 10553 and dated 02.04.1986. According to this Decision, those who are a member of one of the drivers and automobile businesses chamber can get a valid taxi license plate and trade the license. After taking population growth and transportation plan of a district and/or province into consideration, the Traffic Commission and TCC of that province give written information to the Ministry of Internal Affairs about the needs of that area. After the approval of the Ministry, these licenses are allocated through a tendering process. Since the number of taxis that can operate is restricted, an economic rent is emerged and this can be seen from the high prices levels when the licenses traded in the secondary market.

8. The prices of taxi service are calculated as a sum of a fixed cost and a variable cost of the distance covered. It is an issue of debate that taxi numbers relative to population numbers have tended to decline over time, so demand on the peak time can not be fulfilled and the high amount of the monopoly rent paid for the licenses is transferred to the taximeter fares paid by consumers. Another result of this alleged tendency is that unlicensed taxis enter into the market. This result acts against the expected benefit from the license restriction regulation which aims to reduce the number of vehicles, thus reduce traffic congestion, air pollution, etc. Moreover, the private car usage also rises. TCA has not dealt with this sector directly in any of its examinations so far. Yet, conducting a preliminary study to analyze whether the license restriction causes price increase in the taxi fares is on the agenda.

9. There is also the practice of service-buses in the country. The service buses are the ones dedicating their transportation service only to specific company employees or school students. Service buses are also subject to license restriction. Service bus companies are working according to the service procurement agreements signed between them and the client companies/schools. Companies/schools can purchase the transportation service through tendering or direct procurement. Routes and the price of the service are determined by the service agreements, depending on the needs for those using the service. For school services, TCC announces a price ceiling on the basis of specified distance intervals. TCA has, so far, conducted four preliminary investigations in relation to the claims that companies infringed competition through price agreements or bid rigging. However, none of the relevant conducts resulted in further inspections due to lack of evidence.

2. Regional Transport System

10. For the regional passenger transport, Ministry of Transport, Maritime Affairs and Communications is responsible for shaping general transportation policies of the country and is the main regulator of the sector. Powers and responsibilities assigned to the Ministry of Transport, Maritime Affairs and Communications have been transferred to Ministry's Regional Directorates. Regional Directorates have powers to determine eligibility qualifications, supervise those and permit the operations. In exercising such powers, the goal is to ensure that land transport activities are carried out in accordance with economic, technical, social and national security needs and purposes, and that services are in harmony with other transport services. Natural or legal persons who would like to deal with in intercity passenger transport services via buses are obliged to receive an authorization certificate from Ministry of Transport, Maritime Affairs and Communications. There is not any limitation for the number of licenses for inter-city passenger transport and different licenses should be obtained for the provision of different services. While issuing an authorization certificate in inter-city passenger transportation via buses, the licensing conditions are as follows: the applicant must have compulsory individual accident insurance for seats, must be a member of group of carriers in the chamber of commerce, must have legal personality, must have at least 150,000 TL (approx. 70,000 Euros) working capital, and buses by which the transport shall be performed must have more than 25 seats.

11. In inter-city passenger transports via highway, price setting is left to carrier firms in accordance with the provisions of the relevant regulation. But it is established that tariffs introduced are subject to approval by the regional directorates and companies are not allowed to set ticket prices above the approved prices. However, the regulation permits that a 30 percent discount may take place over the prices set. Also, in lines where transportation takes place, Ministry of Transport, Maritime Affairs and Communications also sets a price floor under which level companies cannot set the prices. The aim of the price floor regulation is to prevent practices like predatory pricing in the market. Carrier firms are obliged to comply with tariffs for a minimum of four months and maximum of one year, and it is provided that price changes shall not take place during some specific days such as religious holidays and bank holiday periods.

12. The number of bus firms dealing with inter city passenger transportation at the national level is high, which leads to low market shares. As of January 2013, the number of D1 authorization certificates (for those who engage in regular intercity passenger transport via buses) issued by the Ministry of Transport, Maritime Affairs and Communications is 334 and there are 68.142 buses in the market. Therefore, the figures may be interpreted in a way that the sector presents a competitive structure.

13. There are investigations conducted by the TCA upon miscellaneous complaints that undertakings operating in the sector violated the Competition Act through horizontal price agreements. For instance, as a result of a complaint filed to the TCA in 2005, it was established that the undertakings operating in the province of Nevşehir concluded a price agreement and restricted competition so that the TCA decided to impose fines for the undertakings that engaged in the conduct².

14. In another case, it was claimed that the undertaking operating Izmir intercity bus terminal (IZOTAŞ) had set a lower price limit for bus travel fares. During the investigation period it was detected that IZOTAŞ forced the undertakings using the terminal services to sign protocols leading the termination of price competition. In these terminal service protocols, IZOTAŞ demanded bus companies to adapt the bus service schedules it had set. The relevant market was defined as the intercity bus terminal management within the province of Izmir. In the market, operating terminal services are subject to the Municipality permission. During the investigation period, within the boundaries of Izmir there were only three bus terminals two of which were small scaled terminals belonging separately to two bus companies and which

² Decision dated 31.5.2006 and numbered 06-38/478-130.

were only servicing to their own brand. As a result, IZOTAŞ was the only terminal who was serving several undertakings performing intercity bus services from Izmir to other destinations. As a result, the TCA decided that IZOTAŞ was in a dominant position in intercity bus terminal management market in Izmir and abused its dominance in the terminal services market to restrict competition in intercity bus services market³.

³ Decision dated 11.1.2007 and numbered 07-01/1-1.