



## **Joint feedback on the European Commission's inception impact assessment on Multimodal Digital Mobility Services**

**02/11/2021**

**EMTA** (European Metropolitan Transport Authorities) is an association that unites the transport authorities from 31 larger European metropolitan areas to share knowledge and experience and to jointly address challenges in urban mobility and transport. By bringing together the executives and experts of its member organisations, the regional public bodies endowed with competences in public transport, infrastructure, and mobility, EMTA facilitates a discussion amongst peers to promote good practice and resolve policy challenges for more sustainable and equitable mobility.

**POLIS** is the network of European cities and regions working together to deploy innovative solutions for a more sustainable mobility. POLIS fosters cooperation and partnerships across Europe and with the EU, to make transport research and innovation more accessible to cities and regions. In POLIS, decision makers are also provided with the necessary information and tools for making sustainable mobility policies a reality.

**UITP** is the international association for public transport. In the European Union, UITP brings together more than 400 urban, suburban and regional public transport operators and authorities from all member states. It represents the perspective of short distance passenger transport services by all modes: bus, regional and suburban rail, metro, light rail and tram and waterborne. UITP also benefits from the exchange of experience between its more than 1,800 members from all around the world.

## Preface

UITP, POLIS & EMTA welcome the publication of the roadmap on Multimodal Digital Mobility Services (MDMS).

In anticipation of such an initiative, our three organisations published a joint opinion on EU-wide integrated ticketing (the former name of MDMS). The joint paper proposes principles supported by recommendations regarding the role and the responsibility of the public transport sector in a multimodal digital mobility context. The paper (available [here](#)) is relevant to the current roadmap and is therefore referenced in this opinion.

Indeed, our joint opinion sets out the vision for a functioning market setting for digital mobility solutions that will (i) support, rather than undermine the key role of public transport as the backbone of urban mobility – and (ii) ensure the rights of all citizens to affordable and accessible transport services are not diluted. It states that:

*“Europe’s public transport (PT) provides sustainable mobility for millions of people. It is through the continuous and collaborative efforts of local and regional authorities, transport authorities and transport operators that Europe’s public transport sector has been made to work for the benefit of all. Public transport stakeholders work towards a sustainable mobility system that allows access to all and supports policy goals in terms of energy, space and resource efficiency, equity, and active and healthy lifestyles.*

*[In this context] the MaaS concept represents a formidable lever for organising and managing mobility at regional and local level across all modes of transport. It can support local and transport authorities in their obligation to ensure that every traveller has access to the right information and quality services in all spatial settings and at all times.*

*A long history of public-private sector coordination in the public transport sector has revealed that without an effective governance framework, business interests do not naturally align with sustainable mobility goals, as promoted by cities, regions and the EU. However, market governance based on public-value principles offers an effective means to control undesirable but foreseeable market deficiencies and to inspire meaningful innovation that satisfies business interests and sustainable mobility objectives alike.”*

## Roadmap comments

### 1. Ambiguity of scope

The inception impact assessment lacks clarity regarding scope and focus. Will the European Commission focus exclusively on long-distance transport services, or equally on local<sup>1</sup> transport services? In the latter case, there is a need for greater detail due to the particular market and regulatory conditions that apply to these services. This raises a number of issues of the following nature:

**SUBSIDIARITY** – while transport is a shared competence between the EU and the Member States, *local* transport falls within the competence of Member States. The most effective solutions in this realm are those that are adapted to the needs and specific characteristics of each country, region or city (with regard to geography, topology, sociology, history, institutions, local wealth and many other factors). This is the main reason why the regional public sector has responsibility for organising local transport services. Furthermore, it is for this reason that there is no EU legal basis on urban mobility in the European treaties and that the EU adheres to the principle of subsidiarity on urban and

---

<sup>1</sup> In this document the words “urban transport services” stand mainly for urban/suburban/regional (also called “local”) passenger transport services but may apply as well to the pick-up/delivery of goods in local areas

metropolitan transport matters, which requires particularly strong arguments to justify EU intervention in this field.

- However, the roadmap provides neither the legal basis for EU intervention in urban affairs, nor in national affairs. It clearly states that the « *proposal will support the development of MDMS available **across borders**. It addresses **trans-national aspects** [...] » while at the same time a little further down in the « Objectives and Policy Options » part, it states that « *This proposal aims at increasing the deployment and operational use of digital mobility [...] **within Member States and across borders.** »**
- If the regulation's scope is likely to extend to urban transport, then the basis for EU intervention will need to be provided. It should also be specified that local transport which is cross-border (and its related trans-local aspects across relevant regions of cross-border countries) cannot be regarded as international transport.

Our recommendation: Given their experience and their central role as integrator, their local knowledge, and their mandate and legitimacy as elected officials, any regulation or policy initiative on local mobility should recognise the instrumental role of public authorities and should strengthen their capacity to account for the strong context specificity of mobility in order to achieve Europe's green and digital objectives in all of Europe's cities and regions.

## 2. Public transport differentiation

**PUBLIC vs COMMERCIAL SERVICES** – the award of public transport contracts in the EU is subject to the Public Service Obligations (PSO) Regulation 1370/2007<sup>2</sup>. Public passenger transport services by rail and by road in the EU must comply with the requirements set out in this regulation. Any future EU legislation on land transport would be expected to mention, and perhaps even thoroughly analyse, the impact it might have on the PSO Regulation. Indeed, it is crucial in the context of MDMS to differentiate between those services under public service contracts and purely commercial ones. The PSO Regulation exists to ensure the provision of services that the market would not otherwise necessarily provide. It is precisely because market forces would not allow for a service of the required quality, geographic coverage or cost, that public service contracts came into being. The governance and constraints these services are under differ and any impact assessment would most certainly need to take these differences into account. This is important precisely because new mobility services will need to complement public transport rather than compete with it .

- However, the roadmap makes no reference to public service contracts, to public service obligations nor even to Regulation 1370/2007. In terms of expected economic impacts, the roadmap does not consider the economic equilibrium of public service contracts that an MDMS initiative might have.
- Moreover, the lack of distinction between types of services means that certain concepts employed do not necessarily work in an urban context. For instance, what type of operator would qualify as an « incumbent » operator in an urban setting (see page 2 of the roadmap, « *In some cases, those distribution agreements between operators and digital service providers are unbalanced, due to inequality of bargaining power in favour of incumbent operators* »)? Given that urban public transport is not a

---

<sup>2</sup> Amended by REGULATION (EU) 2016/2338 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 December 2016.

commercial market but more often than not organised as utility with operators under public service contracts being the norm, how would an open competition concept like the one of « incumbent » translate? Indeed, the concept of incumbents often refers to previous state-owned monopolies. Referring to incumbents could lead to the conclusion that the local public transport market is a monopoly which it explicitly is not since the PSO regulation requires contracts to be strictly limited in time, competitively tendered or directly awarded under certain specific circumstances only.

Our recommendation: Transport authorities should continue to be able to award exclusive rights and financial compensation to public transport operators in exchange for carrying out public service obligations under the PSO regulations' conditions. Any legislation on ticketing should not weaken this principle and should recognise the specific nature of the contract between PTAs and PTOs

### 3. Mobility system governance

**COMPETENT AUTHORITIES' ROLE** – the mobility flows on a given territory (be they public transport or road & rail traffic related) are under the jurisdiction of a single competent authority or set of collaborating authorities with distinct mode focus. Their responsibility for the organisation of the mobility flows on their territory, are typically based on long-term goals set out for and by themselves in a comprehensive mobility plan, such as the sustainable urban mobility plans (SUMP) which the Commission is promoting at a local and regional level. To achieve these sustainable mobility goals, competent authorities hold a certain number of levers (eg, access to space, public transport pricing) and are politically accountable to citizens for the policies and measures implemented. Any EU intervention in the area of local mobility must therefore ensure the competent authority remains able to carry out its role effectively.

- However, the roadmap does not mention these authorities, nor does it recognise their crucial role in organising mobility flows and underlying services and infrastructure in their various territories across Europe. In fact, in the « Context » part of the roadmap, the Commission states only that these services « *will improve the sustainability, resilience, efficiency and comfort of the transport system.* » whereas it should have added «in line with local, regional or national sustainable mobility plans». Indeed, the sustainability, resilience, efficiency and comfort challenges vary from one place to another and cannot simply be addressed in the same way across the board.
- Moreover, one of the main levers a competent authority possesses in relation to its mobility plans, is pricing policy. It cannot, and should not, lose this competence which takes into account political, social and economic objectives (e.g., the greening of transport and the internalization of external costs of transport) which are priorities of the European Union. Specific objective n°1 of the roadmap however (page 4), seems to indicate that the proposal for a regulation will allow MDMS to freely negotiate their pricing policy. This should be qualified and made possible only in relation to purely commercial services that do not receive compensations from local public bodies.

Our recommendation: To establish a viable market and ensure public authorities can implement the sustainable and equitable mobility policy objectives promoted by the EU and put into action at the local and regional level, oversight and powers to orchestrate this market need to remain with the legal and democratically elected institutions that will inherit the problems of a potentially malfunctioning mobility system: local and regional transport authorities. Any future European policy on integrated mobility should clarify that the powers to set the conditions for access to public space and infrastructure for transport services remains with the respective local authorities. Furthermore, the

power to set the conditions for the resale of public transport and other publicly produced or compensated transport services should remain with the respective transport authorities.

#### **4. Passenger rights in a multimodal digital era**

We were surprised to find no reference to the rights of the end user and no reference to what we understand to be a parallel initiative dealing with multimodal passenger rights. The Commission itself organised an entire workshop in October 2020 dedicated to “Multimodal ticketing services that work for users”, yet we see no mention of it in the roadmap. We know that travellers expect more from travel service providers in terms of customer service. Furthermore, as we had already set out in our joint opinion:

*“Any integrated EU-wide ticketing system should have at its core the aim of providing easy-to-find and easy-to-use sustainable mobility options that are accessible to all and in accordance with EU legislation such as the new Accessibility Act. It should promote active mobility as well as free-of-charge mobility options, be fully inclusive, and not be primarily driven by economic considerations that might promote those mobility options yielding the highest profits to the detriment of the citizen and our planet.”*

#### **EMTA, POLIS & UITP therefore call on the Commission to:**

- clarify the scope of the future proposal for a regulation;
- better argue on what basis EU intervention is justified and necessary;
- take into account the specificities of public vs commercial contracts;
- take into account existing relations between public transport and new mobility services;
- ensure the development of MDMS does not hamper in any way competent authorities’ ability to organise mobility flows on their territories and set their own pricing policy;
- recognise that these MDMS must be developed in line with local, regional or national sustainable mobility goals;
- consider other legal options to address some of the many problems and challenges the coming policy initiative will seek to tackle (both intermodal and multimodal services, urban & long-distance, etc.)

UITP, POLIS & EMTA look forward to the upcoming public consultation and stakeholder workshops which will allow them to further develop the sector’s vision for multimodal digital mobility services and continue to work closely with the Commission on this topic.