1. INTRODUCTION

As from 1 January 2001, the Passenger Transport Act has become the legal base for urban and regional transport in the Netherlands. It applies to bus, tram and metro services as well as a number of unprofitable regional train services. This legislation represents a redistribution of power between the central government and the Public Transport Authorities (PTA’s) by redefining the relationships between PTA’s and operating companies, by introducing concessions and by promoting competition via tendering of these concessions. Under the new law, PTAs retain the control on transport policy and determine the services to be provided at the strategic level. Operators are in charge of detailed design and actual operation of services.

The policy goals and objectives of the organisational reform are to achieve better service quality, to increase patronage and to reduce operating subsidies. Besides, as a result of tendering unit costs were expected to drop, improving the overall system efficiency. As a consequence of decentralisation, PTAs have the opportunity to create a public transport network that will better meet the travel demands in their region in addition to promoting the objectives of national transport policy. Moreover, decentralisation would create conditions to facilitate better co-ordination between public transport planning and the related regional policies on e.g. infrastructure and housing.

In order to determine the impacts of the new legislation, it was agreed in the Dutch Parliament that an evaluation programme would be carried out. One of the central issues of this evaluation was the functionality and effectivity of the new law. More specific the following research questions had to be answered:

- What was the purpose of the new legal framework?
- How has the legislation been adopted in practice?
- What are it’s effects en to what extend do they meet the expectations?
- What is the contribution of specific instruments of the new law?
- What are suggestions for improvement of the new law?

The evaluation was commissioned by AVV Transport Research Centre and carried out by Twijnstra Gudde and MuConsult. The final report was published in august 2005.
An evaluation of the legal aspects of the new law was carried out simultaneously. Its approach and results matches with the evaluation of the effectivity aspects, but it is no subject of this paper.

Paragraph 2 shows some key indicators on public transport in the Netherlands. Paragraph 3 describes the organization of local and regional public transport including the roles of the different actors. In paragraph 4 the overall results of the evaluation are presented, while paragraph 5 deals with some specific instruments of the law. Paragraph 6 describes how the evaluation is used in the ongoing policy process. Paragraph 7 summarizes the key conclusions.

This paper focuses on local and regional public transport by bus, tram, metro and (partly) regional trains. The national railways in the Netherlands have undergone a quite different reform process in the last decade. An evaluation on this subject is scheduled for 2008 and hence no part of this paper.

2. MARKET DEVELOPMENTS

The overall-position of public transport is a modest one: expressed in trips, public transport has a mere 5% share. Expressed in trip kilometres it is 11% due to the impact of long distance travel. Over the past 40 years public transport has steadily lost its position to its main competitor: the car. Also over the past 10 years the use of public transport has neither matched the total mobility growth, nor the population growth nor the development of employment rates.

<table>
<thead>
<tr>
<th>Mode</th>
<th>market share (trips)</th>
<th>market share (trip kilometres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car</td>
<td>48%</td>
<td>75%</td>
</tr>
<tr>
<td>Train</td>
<td>2%</td>
<td>8%</td>
</tr>
<tr>
<td>bus/tram/metro</td>
<td>3%</td>
<td>4%</td>
</tr>
<tr>
<td>walking/(motor)cycling</td>
<td>46%</td>
<td>10%</td>
</tr>
<tr>
<td>Other</td>
<td>1%</td>
<td>3%</td>
</tr>
</tbody>
</table>

Table 1 - market shares in %, 2005

Contrary to this overall-picture there are a number of corridors in greater urban areas, in which public transport accounts for some 30 to 60% of the number of trips. Comparative research over European regions of a similar scale shows that performances in Dutch urban public transport are moderate to poor. Partly this is due to the large share of cycling and walking on shorter distances in urban areas, which is typical for the Dutch situation.

Bus, tram and metro in the Netherlands have a combined total turnover of nearly € 1.6 billion annually. Fare revenues account for just over 37% of this amount; the rest - € 1 billion annually - is nationally subsidised. Though a comparison with other European regions is risky due to differences in

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definition, it is fair to say this financial performance is mediocre, especially in urban transport.

3. ORGANIZATION OF LOCAL AND REGIONAL PUBLIC TRANSPORT

Until the mid 90’s the trend of growing deficits, growing subsidies, decreasing patronage and growing inefficiency could not be stopped. This cleared the way for a major shift in policies. Public transport along with other public sectors like water and power supply, telecom and health care became subject of a debate on whether these sectors could not become far more efficient when a more market oriented policy would be chosen. At the same time a shift of power from the national level to a regional level was proposed. Background of this idea was, that specific needs of citizens could much better be dealt with on a regional and local level. This plan has been implemented gradually.

From 1 January 2001 the new Passenger Transport Act 2000 is the legal base for bus, tram and metro operations in the Netherlands. It also applies to a number of very unprofitable train services. This law regulates the redistribution of powers between on one side the national government and on the other side the 12 provinces and 7 large urban conglomerations who have become 19 Public Transport Authorities (PTA). Second element of the new law is the introduction of ‘controlled competition’ by the tendering of concessions. Under the new law PTA’s retain control on transport policy and the definition of services on a strategic level. Operators control the services on a tactical and operational level and therefore are in charge of service design. This distinction is based on the idea that operators have better knowledge of their markets, of preferences of (potential) travellers and of the merits of production instruments to meet these preferences. However, the law allows PTA’s to conduct the tactical planning themselves and leave only the actual operation of transport services to the transport companies.

The organizational reform should lead to a better quality of services and subsequently to more patronage and more revenues. At the same time, unit costs should decrease, thus improving the system efficiency. As a result of decentralisation the PTA has the opportunity to create a public transport that better meets the specific regional demands. By making operators responsible for (tactical) planning and operation of services, innovations and marketing should improve. Furthermore, decentralisation should create conditions for better coordination between the PT and other regional policies (e.g. infrastructure and housing).

All stakeholders did not welcome the reform process. Client organizations, trade unions and some political parties believed that the overall assessment of the effects of the new organization would be negative. In particular they feared a decrease in the level of services, in increase in fares, a loss of employment and a deterioration of labour conditions.

Contrary to the previous organizational regime the new law implies the market initiative with PTA’s. It prescribes that an operator requires a concession from
the PTA on the base of a public service tender. It is the PTA who decides what type of public transport will appear in his region and which operator will be granted a concession.

The formation of the PTA’s has lead to two financial relations now: one between the national government and the PTA and one between the PTA and the operator. The national government keeps on providing funds for public transport operations, but this has become part of a broader scheme that includes the means for other transport-related expenditures as well. Contrary to for example France or Sweden PTAs have hardly any possibilities for their own fund raising. The relation between the PTA and the operator can differ from case to case and depends on the PTA’s creativity to stimulate operators to run both efficient and customer oriented services. For example, a PTA can introduce a stick-and-carrot arrangement to influence operators’ performances.

4. OVERALL RESULTS AND EFFECTS

4.1 Realisation of objectives of the new legislation

Though service levels have improved since the law has been effective, the expected increase in patronage has not occurred. De long-term trend of decreasing passenger numbers since 1995 has not been reversed substantially. This conclusion applies both to areas where tendering has taken place as well as to areas which have to be tendered in the near future. The main explanation for this finding goes beyond the scope of the new legislation and has to do with factors like growing car possession and –usage and demographic and economic developments, not favourable to public transport like a relatively less juvenile population and growing income. Apparently, public transport quality and image is not strong enough to attract larger groups of car users and thus improve its market position.

The restructuring of the transport market in the Netherlands has proven to be a long-term process with changing objectives and shifting priorities. The most recent national policy document on mobility for the 2005-2020 period is less strict, or better: more specific on public transport targets. It is accepted that public transport needs to serve specific submarkets rather than being a general provision to all. In this context it can be concluded that over the period 1994-2004 public transport patronage has risen on trips to and from the larger urban conglomerations. Accessibility problems for the private car (congestion, parking space) are the main explanations for this trend. Also in some cases new infrastructure has provided for better services. In more rural areas the use of the public transport has dropped substantially for the reasons mentioned above.

Since implementation of the new legislation operating costs have dropped. In tendered concession areas transport authorities have realized savings of 10-20%. In areas where contracts with existing operators are still negotiated savings of 0-5% have been realized. As of January 2006 the majority of the
contestable market has been tendered. The remaining part is to follow soon. Yet, cost benefit ratios have not improved. This will be explained further on.

4.2 The new legislation in practice

In practice, the application of the new legislation has been almost exclusively the responsibility of the 19 regional public transport authorities. It can be concluded that the degree of fulfilling the new law’s objectives closely follows the way PTAs have used the new legal possibilities.

Service levels have improved as well as the interaction between the different sub modes within the public transport networks. Customer satisfaction has proven to be better in tendered concession areas than in the other areas. Yet, most of these improvements have been used to maintain or even expand services in scarcely populated areas or at off peak hours. These were more political choices rather than choices based on realistic travel demand expectations. As a consequence, a large part of the success of tendering in terms of dropping unit costs has been used to expand vulnerable markets with hardly any growth perspectives and revenues lagging behind accordingly.

The focus of bidding operating companies has proven to be on the demands of the PTAs as stated in the terms of reference. During the validity of the concession there is little opportunity for a customer-oriented approach because of the constant pressure of controlling production costs. In spite of some bonus-arrangements operators hardly take any profit from additional revenues.

Another consequence of this practice is the very limited number of product or process innovations that have taken place. Hardly any new companies have entered the Dutch market, partly because of uncertainties around the allocation of operating subsidies. This is another bottleneck for new creative and innovative solutions.

In order to achieve a more efficient transport system, companies need to compete with each other for concessions. In most tendering procedures the same three companies were involved: Arriva, BBA-CONNEX (now VEOLIA) and Connexxion (the only Dutch based company). Though improvements in terms of unit cost reductions have been reached, cost-benefit ratios have been stable over recent years.

5. EFFECTS OF SPECIFIC INSTRUMENTS OF THE NEW LEGISLATION

The previous paragraph has shown some developments in the public transport market since the new law came into effect. We have also seen that the contribution to these effects of major social and economic trends is a more dominant explanation than the law itself. Also other transport-related issues like parking policy, spatial planning and pricing policies have their impacts on mobility in general and the use of public transport in particular. Nevertheless, the new law contains some more specific instruments worth discussing in this
paper, not at least because of their broad character and their occurrence in similar markets in many parts of the world.

5.1 Concession system

The concession system reflects the principle of the Public Transport Authority’s right of initiative to create public transport according to their views and policies. They have large degrees of freedom in implementing regional priorities and searching for the balance between commercially interesting services and services for small and specific user groups who have no cars available for whatever reasons. The evaluation has shown some bottlenecks in the concession system:

- Although a concession is basically the exclusive right for the concession owner to operate services, the PTA in case of additional services offered by another company and not conflicting with the concession can make exceptions. In practice, this possibility has hardly been used. Especially in the case of longer concession periods more flexibility would no doubt stimulate innovations and creativity.
- The concession system applies to all services with timetables. In many regions, however, parts of the market are served by small-scale demand responsive systems, based on different organizational principles. This situation still limits creative and integrated solutions like the introduction of all kinds of mixed systems.
- Network design and actual service levels (the so-called ‘tactical planning level’) is mostly determined by the authorities rather than by the bidding companies. Though not illegal, this is not in accordance with the intentions of the new legislation.

5.2 Competitive tendering

The tendering of concessions has implied more competition between operating companies. Because procedures were based on European regulation, transparency has been improved and traditional operating companies dominating the Dutch market for decades have no longer the advantage of a lead in market information. Nevertheless, the evaluation has shown some important bottlenecks on this subject:

- Terms of references issued by the PTA’s were very detailed. Also the use of mainly quantitative awarding criteria has limited the input of innovative competences of bidding operators.
- Transparency in tendering procedures has had a disadvantage: it limits the possibilities of consultations between authorities and bidding operating companies. Suggestions and demands from both authority and operator cannot be judged on their market potentials, again decreasing the use of creativity and competences of operators.

5.3 Customer’s position

Users of public transport with alternative modes to their disposal have the most powerful position: they can choose to turn their back to bus and train when they are not satisfied about the service provided. On short distances,
the bicycle is a very common vehicle in the Netherlands. But there are substantial user groups with no alternative than to use public transport. The new legislation provides for customer influence at different stages: the authority has the obligation to consult customer organizations on the terms of reference to be used for the tendering process. And within the concession period, the operator has to consult these organizations in the case of planned changes in timetable or other service aspects. In practice, these consultations have proven to limit effects. Besides, the customer organizations do not represent all user groups in a proportional way. Finally, it has proven to be confusing when operators handle customer’s complaints, while at the same time the authorities are responsible for the services as they were designed to be.

5.4 Market conditions

At present, three larger operating companies dominate the contestable part of the public transport market. This is not a bottleneck in itself, but the evaluation has identified some critical aspects that may hinder competition in such a way that future policy objectives may be put at risk. Here are some of the findings on this topic:

- No foreign operators or coach operators have actually entered the market. The size of the concessions, the obligation to take over operating staff when winning a concession and the still very ineffective financing system are the main reasons for this situation. Together with the present limited number of players this may on the long-term lead to more expensive concessions than in a situation with fierce competition.

- The four largest urban conglomerations in the Netherlands (Amsterdam, Rotterdam, The Hague and Utrecht) are not part of the contestable market yet. Complex ownership relations and the specific problems in tendering rail services (tram, metro) like rolling stock and infrastructure provide for a different time schedule in this submarket. The advantages of the principles of the new legislation are strongly contested in some (local) political circles. The positive experiences with integrated urban systems with tendered concessions, separated by mode, in some Scandinavian cities has not removed scepticism. Nevertheless, the Minister of Transport decided to go ahead with a phased introduction of competitive tendering in these urban areas, scheduled to be accomplished by ultimately 2017. At present, three out of the four companies are functioning more or less independent from their owner. The region of Utrecht is expected to be the first region to tender their bus services in the near future.

- PTA’s ask for many specific references and use heavy turnover criteria in the selection of bids. This is not stimulating for more market entries, especially for smaller companies.

5.5 Protection of staff position

The new law stipulates that a ‘winning’ company takes over all employees, directly involved in the production of transport services from the ‘loosing’ company. This was a major issue at the time of the lawmaking process,
especially from the part of the trade unions. Without this condition the new law would not have been passed through Parliament. The evaluation shows that this measure has worked well enough, though it limits the potential effects of competition. Overall, employment rates have not deteriorated. Productivity figures have improved, but this has happened within the constraints of existing labour agreements. This measure has prevented social commotion and contributed to the acceptance of the tendering system by employees.

6. EVALUATION’S IMPACT ON POLICY PROCESS

The evaluation of the Passenger Act 2000 has lead to a number of recommendations by the researchers. Some of these recommendations were taken over by the Ministry of Transport in preparing an official position for parliamentary debates on the continuation of the implementation of the new law. There is broad consensus on the conclusion that general policy goals like a better market share for public transport is not an issue for legislation, but should be a part of strategic planning at all levels of governance. Nevertheless, the principles of the Passenger Transport Act (concession system, tendering of concessions) will not be changed, since more service quality and better efficiency have proven to be important benefits. It is up to the regional public transport authorities to shape a public transport policy that suits local needs and preferences. A law ‘only’ facilitates in providing a ‘toolbox’.

In addition, since Autumn 2005 the following steps have been taken:
- Authorities and bidding operators get more freedom for negotiating and consulting before contracts are granted;
- Though exclusive concessions remain one of the principles, more attention is paid to the possibilities of awarding commercial initiatives additional to existing concessions. It is up to the operating company who runs the concession to give evidence of any loss of income he may suffer from these additional initiatives by other competitors;
- In order to attract more bidders on the market, a monitoring system will be set up among relevant market players within Europe. This system includes the assessment of experiences and opinions on barriers for market entry in the Netherlands. A more specific step will be a handbook with best practices on concession specifications, terms of reference and tactical planning function. These will hopefully lead to less complicated procedures for both authorities and bidding operators;
- Also the market in the four largest Dutch cities will be submitted to more competition, both in bus and in rail sectors. Specific problems in this submarket will allow for a longer time frame up to 2017.

Not all of the recommendations resulting from the evaluation have been adopted so far. Important example is the recommendation to expand the marketing possibilities for operators including more responsibility for fares and revenues. The complex structure for allocation of subsidies and the absence of an automated fare system are still major barriers. The planned introduction

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of a nationwide chip card system may remove these barriers within the next 2 years.

7. CONCLUSIONS

On January 1 2001 new legislation on the planning and operation of local and regional public transport in the Netherlands was introduced. An evaluation of its effects was accomplished by late 2005. These are the main conclusions:

- Not all policy objectives of the new law have been fulfilled: services as well as efficiency has improved, but revenues and travel demand have not increased. In other words: more value for money, but this value has not been used;
- Specific instruments of the new law have worked out well, nevertheless there is room for improvements;
- The concession system needs more flexibility and less complicated procedures;
- In one of the most important submarkets, the large urban conglomerations, no tendering has taken place up to now. This is expected to change in the coming years;
- Few companies dominate the Dutch market. Additional efforts are needed and will be implemented to change this situation.

BIBLIOGRAPHY

