

Draft regulation on public passenger transport services by rail and by road

Which Consequences for Local Public Transport?

ETC 2006 - Strasbourg

- EMTA, created in 1998 is an association bringing together authorities responsible for local public transport
- It forms a venue for exchange of information and best practices between transport authorities
- It now has 30 members, representing a total population of some 85 million European citizens
- Objectives:
 - Exchange of information and best practices between its members
 - Improvement of the knowledge in the field of public transport organisation
 - Contribution to the European Transport Policy

Current Framework for local public transport services in Europe

Content of the last known version of the text

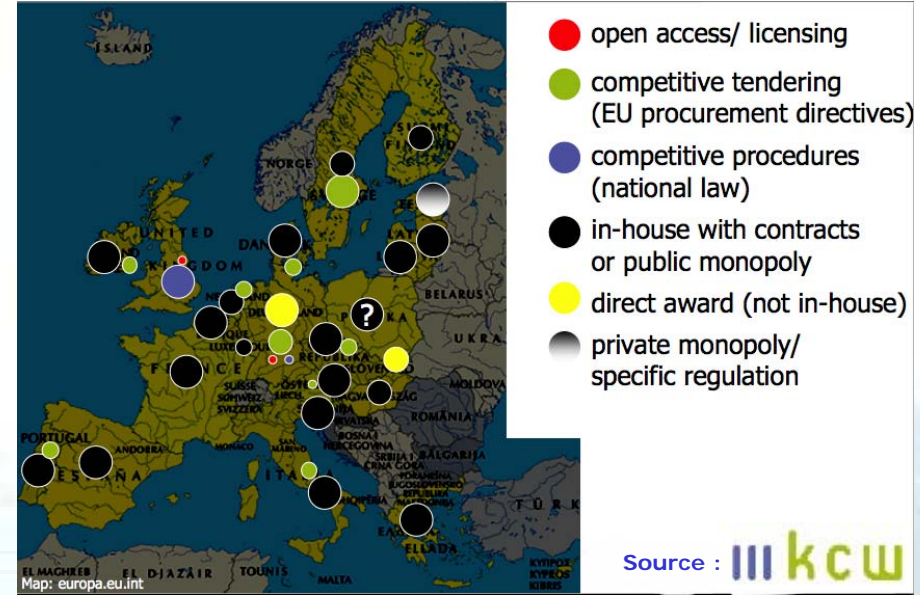
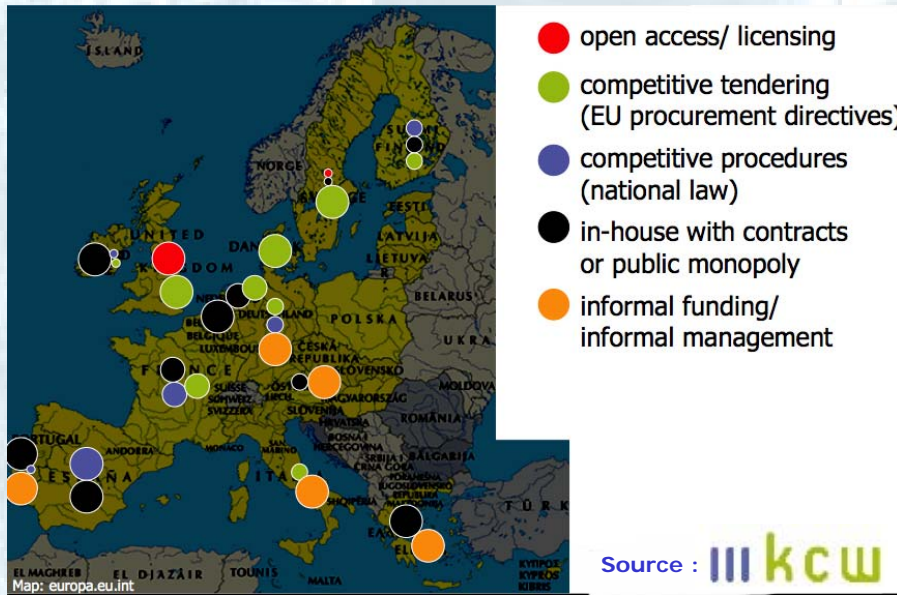
Potential impacts on public transport provision

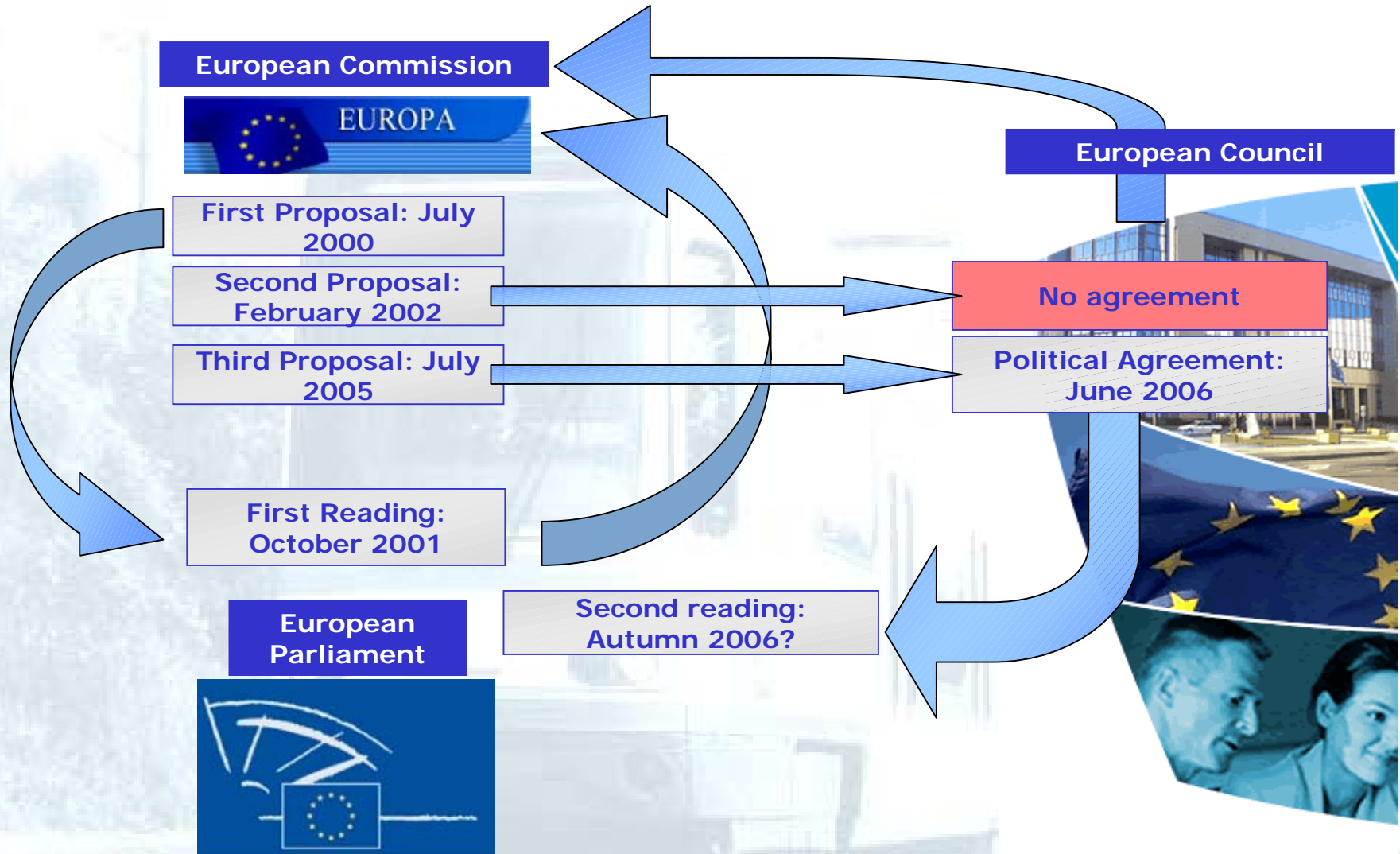
■ Legal basis for transport in EC Treaty

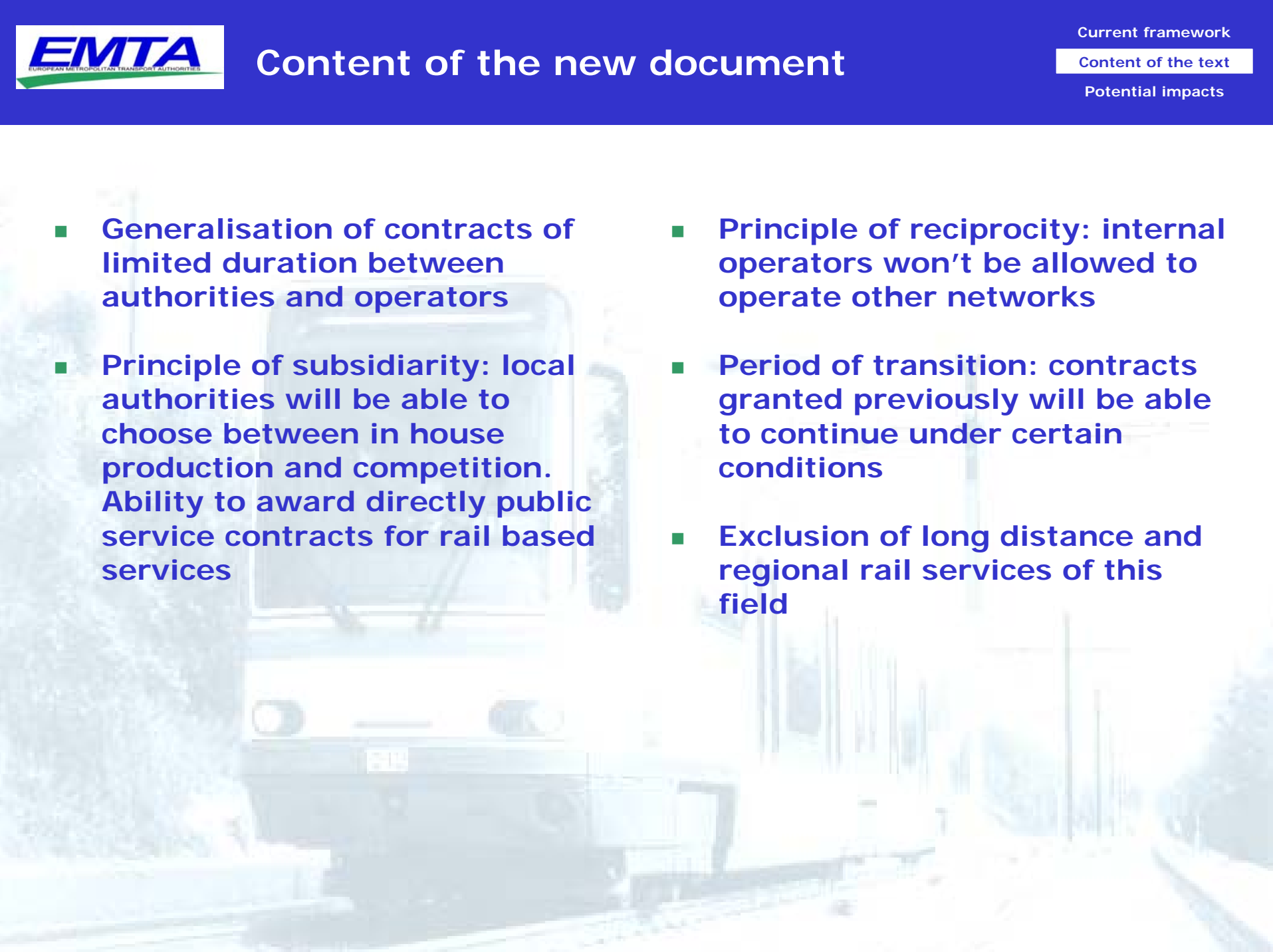
- Article 86: “Undertakings entrusted with the operation of services of general economic interest (...) shall be subject to the rules contained in this Treaty, in particular to the rules on competition (...). The development of trade must not be affected to such an extent as would be contrary to the interests of the Community.”
- Article 73 is a Lex specialis for transport sector: “aids shall be compatible with the Treaty if they represent reimbursement for the discharge of certain obligations inherent to the concept of a public service”

- **The conditions required to comply with this article are listed in regulation EEC 1191/69 updated in the regulation 1893/1991**

A widespread use of contracts and various experiences of tendering





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- **Generalisation of contracts of limited duration between authorities and operators**
 - **Principle of subsidiarity: local authorities will be able to choose between in house production and competition. Ability to award directly public service contracts for rail based services**
 - **Principle of reciprocity: internal operators won't be allowed to operate other networks**
 - **Period of transition: contracts granted previously will be able to continue under certain conditions**
 - **Exclusion of long distance and regional rail services of this field**

Mandatory content of contracts

- Definition of public service obligations
- Parameters established to evaluate for compensation payments. Have to be calculated in order to avoid overcompensation
- Arrangements for the allocation of costs connected with the provision of services
- Arrangements for the allocation of revenues from fares

Maximal duration of contracts



Bus & coach services:
10 years



Track-based services:
15 years

Multimodal networks :
15 years if rail services account for more than 50% in value

Extra duration of 50% if the operator provides significant assets

Possible even longer duration for contracts awarded through a competitive tendering procedure in case of exceptional investments

- **Contracts granted through a competitive tendering must comply with public procurement directives, except for concessions**
- **Direct award is allowed in the following situations:**
 - In-house production* (internal operator)
 - Annual service less than : €1 million or 300,000 veh.km, brought down to €1.7 million or 500,000 veh.km for small and medium sized companies (less than 20 vehicles)*
 - In case of emergency (disruption of services), but no more than for two years
 - Rail based services*, with the exclusion of metro and tramways modes

*unless prohibited by national law

■ Control of the operator by the authority

- Control similar to the one exerted over its own services
- 100% ownership not mandatory
 - Possible ownership by a unique stakeholder of the competent authority
 - Possible involvement of private interests (PPP)

■ Geographical containment

- The internal operator shall perform all public transport activity within the territory of the corresponding authority
- Allowance of ancillary activities or outgoing lines
- The authority can prevent the operator from participating into competitive tendering within its own territory

- The regulation will enter into force 3 years after its publication
- During the 12-year transitional period on-going contracts will still have a legal basement under certain conditions:

	Contracts awarded before July 2000	Contracts awarded after July 2000 and before entry into force of the regulation
Contracts awarded on the basis of a fair competitive tendering procedure	May continue until they expire	May continue until they expire if duration is less than 30 years
Contracts awarded with another procedure	May continue until they expire if duration is less than 30 years	May continue until they expire if duration is comparable to maximal duration according to the new regulation

- **Clarification of roles and responsibilities**
- **Setting up of transport authorities where they do not exist (i.e : New Member States)**
- **Existing models of organisation are largely compatible with the text:**
 - De-regulated markets (use of general rules)
 - Regulated markets with controlled competition
 - Monopoly regime with internal operators

■ Consequences on rail-based services

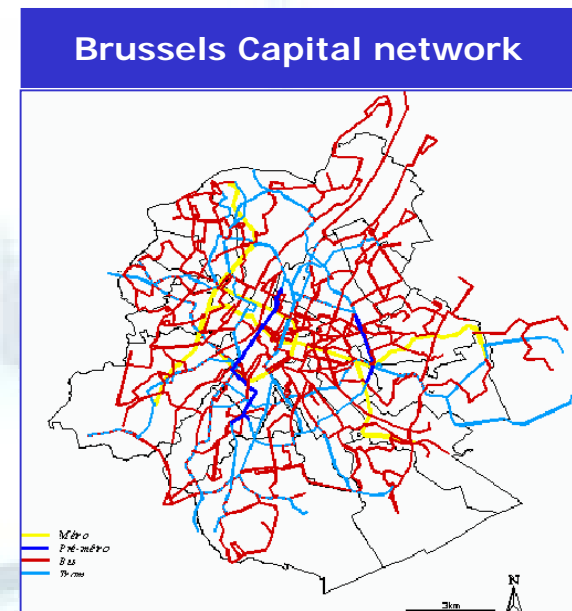
- Freedom of choice for local authorities may be limited by national legislative framework
 - France, Finland
 - Holland



- Which articulation with the third railway package?

■ Consistence of networks

- No more specific provision in the text referring to integrated networks
- Geographical containment of internal operators: allowance of outgoing lines



■ Impacts on costs and patronage

Results achieved in 30 EU cities in the 90's quoted in EU Commission second proposal

	Annual rate of change in numbers of passenger trips	Annual rate of change in the proportion of operating costs covered by fares
Cities using controlled competition	+ 1.8%	+ 1.7%
Cities without competition in public transport	- 0.7%	+ 0.3%
Cities using deregulation without significant control by public authorities	- 3.1%	+ 0.3%

- Which consequences in a longer-term perspective (private monopoly?)
- Incentives and impacts on quality: the issue of the "reasonable profit"

- A new regulation is highly expected by a large number of players (operators, authorities, local governments, national governments, EU Commission)
- The discussion in the Parliament can lead to a quick adoption or a third reading.
- The third reading would mean a new version for the text or a complete withdrawal
- The Commission promotes the model of controlled competition but the regulation will not impose a common organisational framework nor a unique model of contract awarding
- The implementation of the regulation will be monitored at EU level. First results will be available after the first half of the transitional period.