

10 years

OF TRANSPORT
REGULATORY
ACTIVITIES

2020 Activity Report



Legal status

The French Transport Regulatory Authority (ART) is an independent public authority (IPA).

An IPA is an administrative body with a legal personality (a legal person under public law), acting on behalf of the French State and with real powers, yet not under the authority of the French Government.

7

board members

5 permanent
& 2 non permanent¹

Appointed for six years, their mandate
is non-renewable and irrevocable.
They are bound by the Authority's
Code of Ethics.



88 FTEs²

Headcount
on 31 December 2020

€11.2 M³

2020 budgetary
appropriation

¹ Non-permanent members will not be reinstated at the end of their mandate.

² FTE: Full Time Equivalent.

³ The French 2020 Budget Act provided for €11.4 million to be allocated to ART as a subsidy for public service charges drawn under program 203. A €0.2 million reserve was however deducted from this amount by the Directorate-General for Infrastructure, Transport and the Sea (DGITM).



table of contents

	Editorial	<u>p. 12</u>
O1	A decade of regulatory affairs	<u>p. 15</u>
O2	The regulation of the rail transport market	<u>p. 49</u>
O3	The control and regulation of motorway concessions	<u>p. 83</u>
O4	The regulation of the coach market	<u>p. 113</u>
O5	The regulation of airport charges	<u>p. 133</u>
O6	Acting on a European level	<u>p. 151</u>
O7	The Authority's communication strategy	<u>p. 167</u>
O8	Governance and organisation	<u>p. 177</u>
O9	A warm thank you to all our staff	<u>p. 191</u>
	Appendices: opinions and decisions	<u>p. 195</u>

Facts
& figures
for

20
20



65
board
meetings

87

opinions and decisions
including

3

decisions
on settlement
agreements

&

7

decisions
on infringement
proceedings

14

players from the
transport sector
were heard by the Board

2

appearances
of the President before
the Parliament

3

hearings held
by the Board for purposes
of dispute resolutions



5

decisions
on the transfer of information
to the Authority

10 contentious appeals with rulings in 2020

1

decision
by the Court
of Cassation

3

decisions
by the Council
of State
(including 1 decision ruling
on 6 appeals)

1

decision
by the Paris Court
of Appeal



9 contentious appeals

pending on 31 December 2020

7

before the Council
of State

&

2

before the Paris
Court of Appeal

8

public
consultations



Key 2020 dates

January

15

A ruling by the French Court of Cassation reinforces the Authority's control over contracts awarded by motorway concessions companies

22

Publication of the review of the French rail passenger and freight market for 2018

29

At the French National Assembly, celebration of ART's 10th anniversary in the presence of the President of the National Assembly, Richard Ferrand, and under the high patronage of Prime Minister Édouard Philippe

30

In one opinion, the Authority recommends reviewing the draft of the second amendment to the concession agreement between the State and Atlandes, a motorway concession company

March

4

Bernard Roman appears before the French Senate Inquiry Committee, on the control, regulation and evolution of motorway concessions

23

Jordan Cartier is appointed Deputy General Secretary of the Authority

May

19

Florence Rousse and Patrick Vieu are appointed Vice-Presidents of the Transport Regulatory Authority

June

16

The Authority publishes a public contribution on the economic model of the charging framework for passenger train station

30

The Authority and the French Public Establishment for Rail Safety — EPSF — sign a cooperation agreement

July

9

Public hearing on the settlement between FlixBus France and Transdev Mont-Saint-Michel

15

Bernard Roman meets Jean-Baptiste Djebbari, Minister Delegate for Ecological Transition, in charge of Transport

23

The Authority publishes its report on markets and contracts awarded by motorway concession companies in 2019

30

The ART Board adopts its first report on the general economics of motorway concessions

31

The Authority publishes its annual report on the road passenger transport market for year 2019

October

13

The Authority publishes the results of the liberalised coach transport activity for the first semester of 2020

November

9

Bernard Roman is heard by the French Senate, on the 2021 Finance Bill

27

Decision of the French Council of State concerning the appeal lodged by SNCF Réseau against the Authority's Opinion of 7 February 2019 on the setting of infrastructure charges for the use of the national rail network for the 2020 working timetable

December

2

Bernard Roman is heard by the French Court of Audit as part of its audit of SNCF Gares & Connexions management of financial year 2014 and subsequent financial years

16

The Authority publishes a summary of the accounts of motorway concession holders for year 2019

16

Publication of Order No. 2020-1602 extending ART's competence to airports where annual traffic exceeds five million passengers during any of the previous five years

Editorial

2020: intense activities in an unprecedented health crisis context

2020 will have been doubly exceptional for the Authority since it was marked, on the one hand, by the global health crisis linked to the Covid-19 epidemic and, on the other, by increased activities due to the expansion of the Authority's competencies, as ruled by the legislator at the end of 2019.

Regarding the impact of the pandemic on the transport sector, we at the Authority, have noted, particularly during lockdown periods, a significant drop in motorway traffic, a massive drop in traffic in the rail and air industries, and even a complete standstill in the road passenger transport sector, more commonly referred to as the «Macron coaches». An entire sector of the economy was put on standby — or very nearly so — and to this day, we at the Authority, still don't know how the mobility sector will evolve in the coming months, given the changes in lifestyles and new forms of work organization (NFWO) that have been brought about.

During that same period, the Authority has been working to meet the new tasks entrusted to it during the last quarter of 2019, in particular the regulation of airport charges.

It is in this context of a 65% drop in passenger traffic that the Authority carried out its first year of regulatory work. Thus, while the Authority was initially committed to consulting with all stakeholders to develop a robust

methodological framework and begin to build its policy in this area (particularly concerning fair return on capital employed and a fair pricing strategy), it is not until Order 2020-1602 of 16 December 2020, which clarified the legal framework defining the Authority's scope of intervention, that its jurisdiction was stabilized regarding the area of airport regulation. This had become all the more essential due to the context mentioned previously.

Regarding the rail sector, irrespective of the difficult context linked to the health crisis, the Authority has been determined to stay the course in order to work for the effective opening up of passenger rail transport to competition. Indeed, it is now of the essence to create the conditions that will allow new entrants, as well as railway companies or authorized applicants already present on the French market, to benefit from transparent, fair and non-discriminatory access to the network and to service facilities. Hence, the Authority has firmly established its diagnostic work and its drafting of recommendations, thus enabling railway companies to benefit from the best operational conditions for access to railway infrastructure. Noteworthy is the fact that in February 2020, the Authority published an opinion containing some thirty recommendations linked to the annual review of the non-tariff section of the French rail network statement for the 2021 and amended 2020 working timetables.

2020 has been a particularly busy year for the motorway sector. Indeed, for the first time since the legal arrangements came into force, a peak was experienced in the number of referrals, recorded in one year, relating to sub-concession contracts. Throughout the year, there was also the ongoing debate on the profitability of motorway concessions. Moreover, it was thanks to the publication of its first report on the general economics of motorway concessions that the Authority was able to educate, dispel preconceived ideas and formulate well-founded recommendations to enlighten public decision-makers during this debate. May I remind you that this first report was drawn up by the Authority from its own perspective: that of a sector regulator whose mission is to ensure that the toll charging scheme functions properly, whilst as regulator, remaining true to its values of independence, expertise, transparency, and dialogue. It is in this first report that, for the first time since motorway concessions were established, the Authority meticulously assessed and disclosed the rate of return of these concessions.

Finally, in order to contribute to genuine competition in the market of non-public service obligation road passenger transport services, the Authority adapted its control strategy to refocus its action on intercity road transport arrangements of greater interest for the «Macron coaches».

Clearly, this unprecedented context has led the Authority as transport regulator to question the very meaning of the missions entrusted to it and of the objectives to be set to adapt to this unique situation. With this in mind, the Authority published its own reference document and strategic directions for 2021-2022. These will enable the Authority to respond to



Bernard Roman

President of the
French Regulatory
Transport Authority

emerging global issues such as data-driven regulation, the fight against climate change and the impact of the health crisis on regulated sectors.

Throughout 2020, the expertise and unfailing commitment of all our staff, whom I would like to pay special tribute to for their considerable work, have helped to give its full meaning to the mission entrusted to ART by the French legislator.

It is therefore with enthusiasm born out of a sense of action, that I invite you to read this Activity Report spanning a decade, published at a time when regulation will need to be based even more on an unceasing dialogue engaging all the players of the transport industries, whilst always ensuring a focus on the interests of the users.

A handwritten signature in black ink, appearing to read 'Bernard Roman'.

Bernard Roman

A decade of
regulatory
activities





A decade of regulatory activities

This 2020 Activity Report marks an anniversary: the tenth anniversary of the French Transport Regulatory Authority (ART).

Over the past decade, ART — initially focused only on the rail industry, has succeeded in gaining the trust of decision-makers and parliamentarians and has become the regulator for multimodal transport, with three new sectors being incorporated into the scope of the regulatory work entrusted to it during the last quarter of 2019 — (a) airport charges, (b) activities of infrastructure managers, technical management as well as security services provided by RATP in the Île-de-France Region, and (c) digital mobility services. Although 2020 began with the celebration of the Authority's tenth anniversary, it then became strongly impacted by the health crisis and its consequences on all the industries regulated by ART. Against this backdrop, the Authority wished to define strategic sectoral and cross-sectoral guidance policies for 2021 and 2022, which were made public early in 2021.

• RAILWAYS •

↘ **36%**

Rail traffic during
the first half of 2020
compared to 2019

↘ **20%**

Freight train traffic
during the first half of 2020
compared to 2019

↘ **37%**

Rail passenger transport services
during the first half of 2020
compared to 2019

↘ **72%**

Passenger traffic
between March and June 2020
compared to 2019

• AIRPORTS •



↘ **69%**

Passenger traffic compared
to 2019 at aerodromes under
the Authority's jurisdiction

• MOTORWAYS •

↘ 22%

Motorway traffic
in 2020

↘ 80%

Motorway traffic
in April 2020



• NON-PUBLIC SERVICE OBLIGATION PASSENGER TRANSPORT (SLO) SERVICES •

↘ 30%

Services offered by the 2 national
operators (BlaBlaBus and Flixbus)
in 2019 operating at the
beginning of summer 2020

113

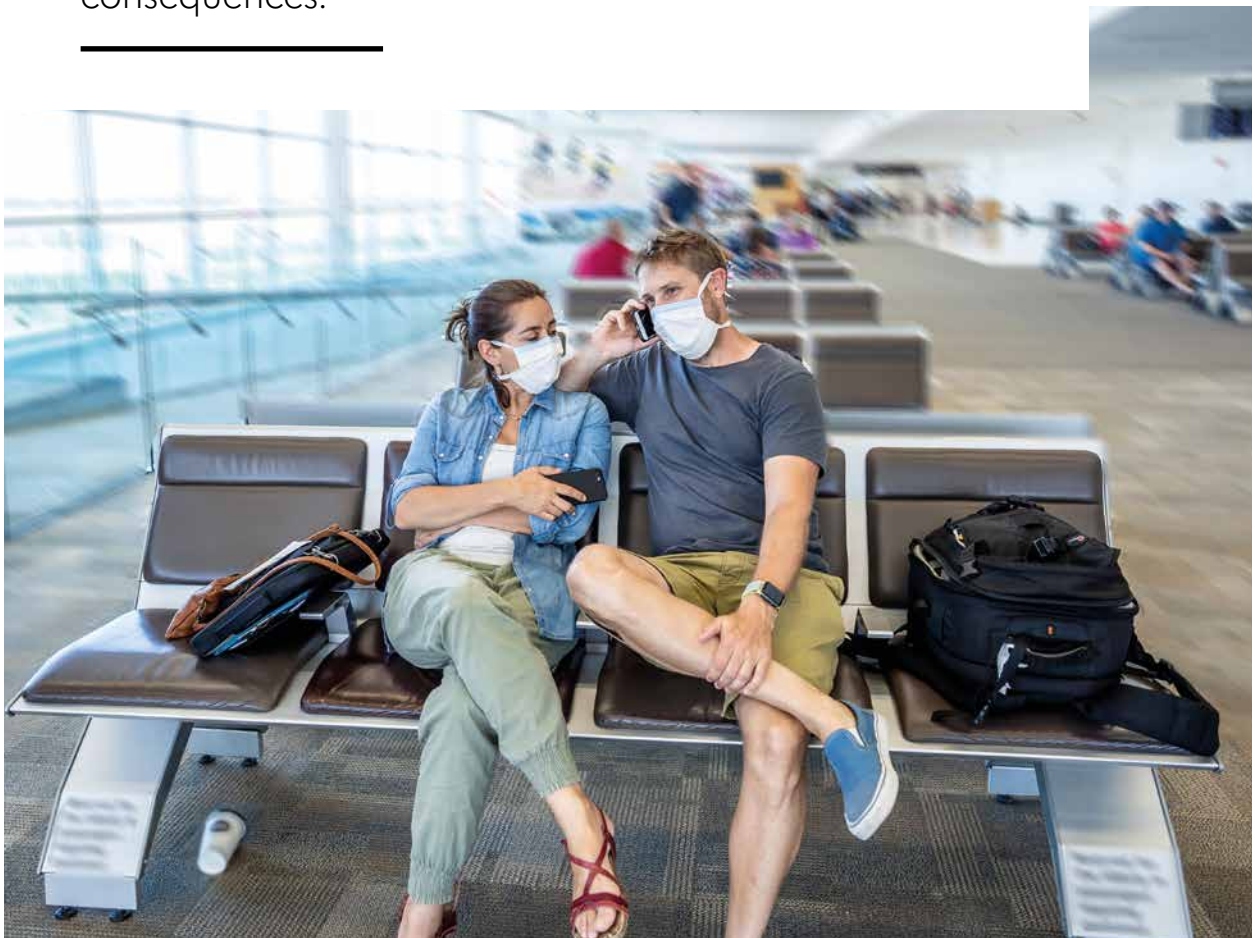
daily departures during
2nd quarter of 2020, i.e.,
less than at opening up of
market in 2015

2020:

An overview of the impact of the health crisis

The entire transport industry has been affected by the health crisis.

Will the activity slow down or stop altogether? The Authority has a cross-sectional view of the various transport markets it regulates but is not yet in a position to measure the exact consequences.



Railways

The lockdown period during the first half of the year led to a sharp fall in the volume of rail traffic services — a near 78% plunge at the height of the first lockdown, with a much more restrained impact on freight activity (67% fewer weekly train runnings) than on passenger services (an 81% plunge). Dropping more sharply than the services, the ridership of rail passenger services plummeted by 95% in April 2020 compared to 2019.

The ridership in international services was the slowest to recover with an 18% patronage in June 2020 compared to June 2019, against a 46% ridership of the domestic high-speed compatible train services. Commercial domestic occupancy rate proved the most resilient during lockdown - in April it remained above 50%.

When compared to other European countries, the decline in rail passenger transport was comparable in France, Italy and Spain, yet more pronounced than in Germany and Sweden.

Rail freight transport suffered an impact similar to road transport during the first half of 2020, both transport modes dropping in tonnes-km by 17% and 16% respectively. Freight transport trends were fairly homogeneous within European countries, with a much less noticeable plunge of passenger transport trends.



2020: An overview of the impact of the health crisis

Motorways

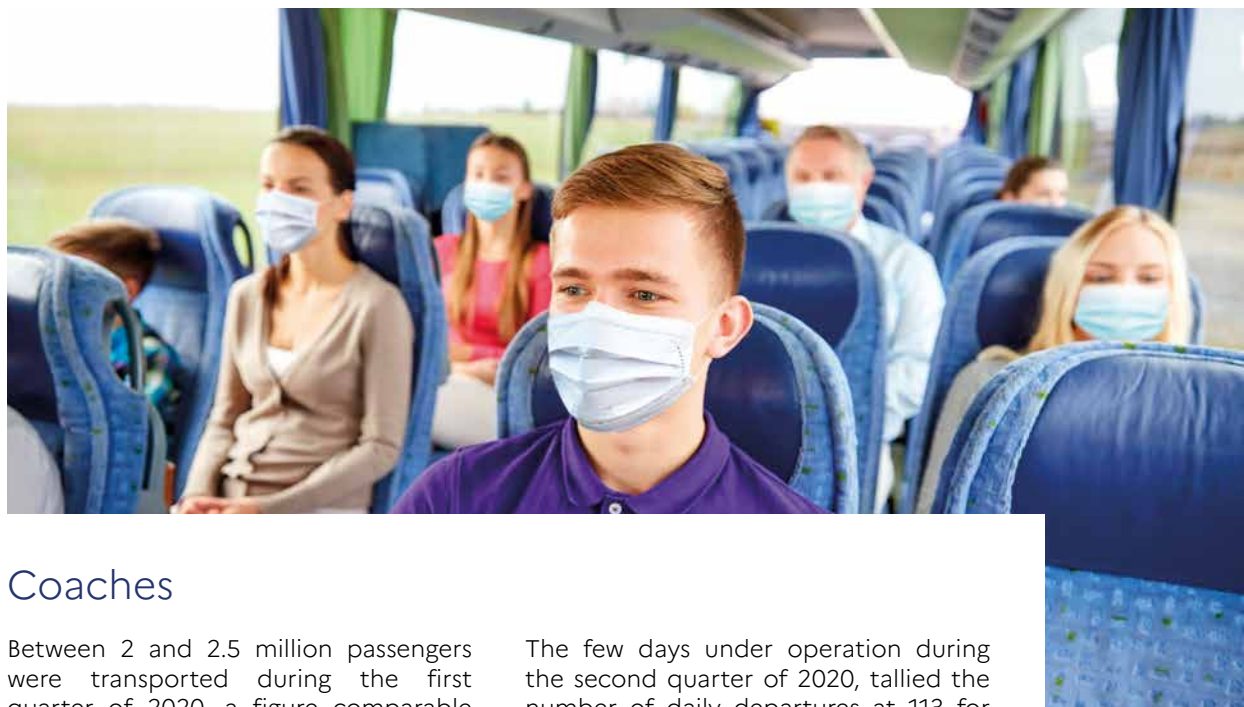
In 2020, traffic fell by an average of 22% on the motorway network under concession. This average hides significant disparities between vehicle categories, networks and time of year.

Traffic decreased mainly during the first lockdown, although it remained impacted by the second lockdown and even outside these two periods. The first lockdown, from 17 March to 11 May 2020, translated into an 80% plunge in traffic during the month of April. The second lockdown, from 30 October to 15 December 2020, had a more moderate impact with 31% and 32% drops in traffic in November and December. This lesser traffic drop was the result of less stringent lockdown measures. The period between the two lockdowns showed neither signs of recovery nor of reaching 2019 traffic levels. Traffic was 3% lower in July and August 2020 than during the same months of the previous year. The decline was again 8% and 9% lower in September and October.

Sanitary measures enforced during the first lockdown led to a halt in construction works, which will result in future delays in commissioning and may lead to increased costs for certain motorway concession companies (MCCs).

The impact of the first lockdown on motorway works proved indeed to be significant: works halting at construction sites and, more broadly, the freezing of a large part of all economic activities (shortage of materials and equipment supplies, unavailability of employees, degraded public procurement, etc.), which led to a loss of activity in the public works sector estimated at over 50% for March, April and May 2020. Delays in the commissioning of works or additional costs to offset said delays can thus be expected in the future.





Coaches

Between 2 and 2.5 million passengers were transported during the first quarter of 2020, a figure comparable to that of the first quarter of 2019. The consequences of the January 2019 SNCF strikes thus offset the pause in activity at the end of March, since nearly all operators had to interrupt their commercial services on 17 March 2020, at the start of the lockdown period.

Only four operators resumed activities at the very end of the second quarter of 2020.

The two operators servicing a national network — BlaBlaBus and FlixBus, resumed operations on 24 June and 18 June 2020 respectively. When resuming operations, BlaBlaBus and FlixBus concentrated all of their activity on a limited portion of their respective networks and operated less than 30% of the routes they had offered the previous year. The density of the network was thus directly impacted by the change in the number of routes.

The few days under operation during the second quarter of 2020, tallied the number of daily departures at 113 for those operators' actually operating at that period, a number lower than the level observed when the market was opened up in 2015. This is an indication for the coach transport mode, pointing to the slow recovery of the transport supply side over this period.

As part of the monitoring the Authority carries out of market supply, measured here by the trend in the weekly average of the number of daily trips offered for sale 3 days before departure on a panel of 70 routes, it was noted that traffic gradually recovered during the third quarter yet without returning to early 2020 levels. Traffic seems to have stagnated or decreased since the end of August, before coming to a virtual halt due to the lockdown on 29 October 2020. A limited resuming of services then took place from 17 December 2020 with only one active operator.

2020: An overview of the impact of the health crisis

Air transport

The air transport industry was hit hard by the health crisis. According to the International Air Transport Association (IATA)¹, passenger traffic over the whole of 2020 was down by 65.9% compared to 2019. Europe was particularly affected with a 69.9% year-on-year drop in traffic and an 82.2% drop in December 2020 alone, as a result of the second wave of the epidemic. According to Eurocontrol

projections published in November 2020, worldwide air transport is not expected to return to pre-crisis traffic levels until at least 2024, an «optimistic» scenario based on the availability of a vaccine for all passengers by summer 2021.

In view of the drop in traffic observed at world and European levels, aerodromes under the Authority's jurisdiction were no exception and saw their traffic decrease by an average of almost 69% between 2019 and 2020.



¹ IATA, press release of 3 February 2021.

How the Regulatory Authority became a multimodal transport regulator in a decade

The 10th anniversary of the French Transport Regulatory Authority was celebrated at the French National Assembly on 29 January 2020.



The will of the legislator created the Authority, and its legitimacy has been reaffirmed several times over the past decade, with a progressive and continued expansion of its missions.

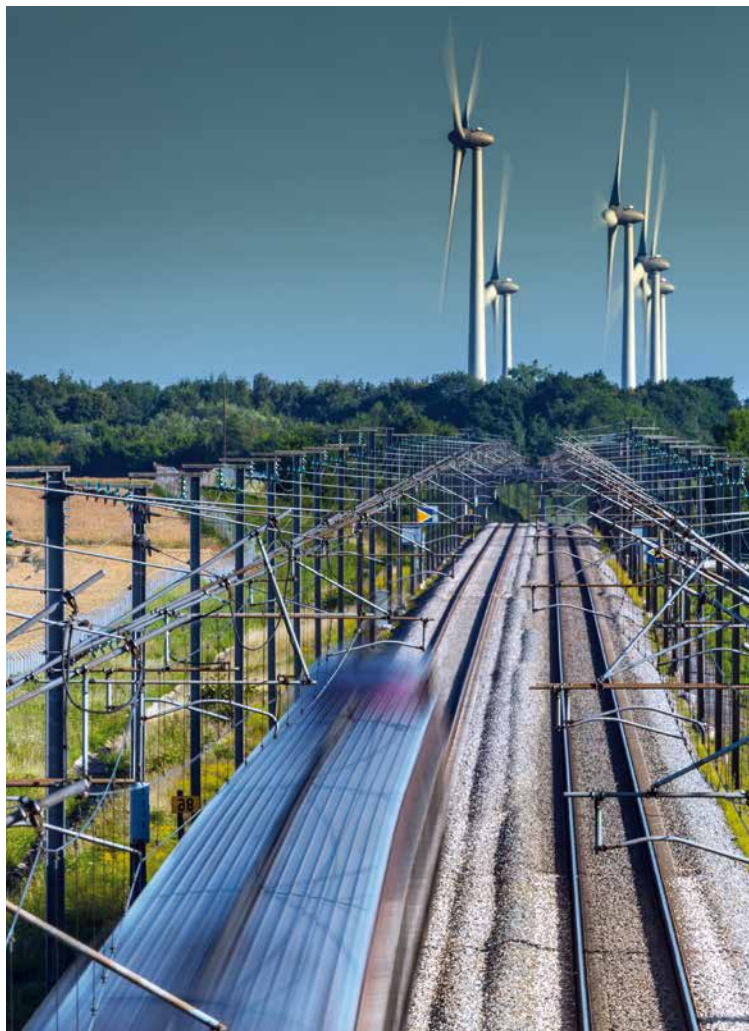
The French Rail Regulatory Authority (Araf) was created on 8 December 2009

As with other sectors opened up to competition, the European Union has required that each Member State set up an independent regulator to accompany the opening up of the passenger rail transport market to competition and to ensure free, transparent and non-discriminatory entry into the network. French Act No. 2009-1503 of 8 December 2009 thus created the *Autorité de régulation des activités ferroviaires* (Araf).

The appointment of Pierre Cardo as President of Araf on 20 July 2010 laid the organisational foundation of the Authority.

Its power to give opinions on rail infrastructure access charges enabled it to begin work on access charges alongside SNCF Réseau (formerly Réseau ferré de France). A decade later, this is beginning to bear fruit.

10 years to become a regulator of multimodal transport



Araf strengthens its competencies

The Railways Reform Act No. 2014-872 of 4 August 2014 strengthened the regulator's missions and safeguarded the independence of the infrastructure manager by building an impassable wall between SNCF Réseau and the integrated public group's railway companies. Araf's competencies were thus extended to encompass the railway system's economic model and its opinions extended to incorporate the charging scheme of all rail service facilities (passenger stations, maintenance centres, freight yards, etc.), as well as financial matters. The Authority became responsible for ensuring compliance of SNCF Réseau's budget trajectory and monitoring the financing terms of its investment projects.

The entry into force of European amended Directive 2012/34/EU has led on 16 June 2015, to the transfer to the Authority and to its British counterpart, the Office of Rail and Road (ORR), of the economic regulation of the Channel Tunnel, once again extending further the regulator's scope of intervention.

Araf becomes Arafer

French Act No. 2015-990 of 6 August 2015 on growth, activity and equal economic opportunity, known as the «Macron Law», gave the Authority a multimodal dimension by extending its missions to encompass both road transport by regular intercity passenger services (as of 15 October 2015) and the motorway industry (as of 1 February 2016). Araf thus became Arafer, the regulatory authority for rail and road activities.

By liberalizing regular intercity road passenger services in France, this Act tasked Arafer with the regulation of intercity services of less than 100 km; with a regulatory mission for coach terminals and facilities; and with a general mission to observe the market. This new mode of transport via coach will have enabled over 10 million people to travel in 2019.

As for the motorway industry, the Act of 6 August 2015 tasked the Authority with new missions — to formulate opinions and to control, in order «to compensate for the asymmetry of means between concession operators and licensor».

It follows that the Opinion on the motorway investment plan (plan d'investissement autoroutier - PIA), published by the Authority in 2017, has had a considerable impact, leading to the phasing out of several of the industry's operations, to a cut of about €100 million in the plan's overall budget and, consequently, in the end, to lesser toll increases for users. More recently, in the second half of 2020, the Authority published its first report on the general economics of motorway concessions, thus helping to educate and inform the public debate on this issue.

“As for the motorway industry, the Act of 6 August 2015 tasked the Authority new missions — to issue opinions and to control, in order to compensate for the asymmetry of means between concession operators and licensor.”



10 years to become a regulator of multimodal transport

The importance of data for regulation

Lastly, Act of 6 August 2015 allowed the Authority to use collecting data decisions for the rail, road and motorway industries. This competence, which in the case of railways is a direct result of EU Directive 2012/34, reinforces ART's mission to monitor the markets and demonstrates the importance, for regulation, of holding data. The Authority obtains a better understanding of the markets through data collection and analysis, leading to a better regulation of these markets. For both players and users, studies and analyses conducted by the Authority provide a deeper understanding of supply and demand in regulated markets. They also help define public debate and guide public decisions, contributing to reducing information asymmetries.

ART has become the most sizeable multimodal transport regulator in Europe

On the eve of the opening up of passenger rail transport services to competition in France, Act No. 2018-515 of 27 June 2018 for a new Railway Pact, and Order No. 2018-1135 of 12 December 2018 issued on the basis of the Act, both tasked the Authority with new regulatory duties by strengthening its powers to issue opinions, settle disputes and enforce penalties.

On 24 July 2019, Order No. 2019-761, pursuant to the approval granted by the Act on growth and transformation of businesses (known as the PACT Act), once again increased the Authority's powers, entrusting the regulator, as of 1st October 2019, with the regulation of airport charging schemes. This regulation is essentially twofold: the annual approval of tariffs for airport charges and the issuing of a binding opinion on draft economic regulation contracts (contrats de régulation économique – CRE) between airport operators and the State, creating a framework for charges adjustments over five years.

Finally, the gradual entry into force in 2020 of Framework Act No. 2019-1428 of 24 December 2019 on mobility (known as the Mobility Act) continued to broaden the scope of the Authority's regulatory activities.



“The gradual entry into force in 2020 of Framework Act No. 2019-1428 of 24 December 2019 on mobility (known as the Mobility Act) continues to broaden the scope of the Authority's regulatory activities.”

Firstly, the Mobility Act entrusted the Authority with the regulation of the following activities of the Régie autonome des transports parisiens, i.e., RATP: (a) the infrastructure management activities of the historical network; (b) the technical management of the Grand Paris Express network; and (c) the security services known as the Groupe de protection et de sécurisation des réseaux (GPSR) – the Group for the protection and safety of networks.

Secondly, the Mobility Act entrusted ART with a mission regarding the opening up of mobility data and ticketing in order to ensure, among other things, the control of compliance with the arrangements of the European Regulation of 31 May 2017 on the provision of multimodal travel information services.

In a decade, the Authority was able to gain the trust of decision-makers and parliamentarians and become the regulator for multimodal transport. The Authority strives, day after day, to preserve this trust it established with its various counterparts — decision-makers, parliamentarians, regulated operators, etc.



“In a decade, the Authority was able to gain the trust of decision-makers and parliamentarians and become the regulator for multimodal transport. The Authority strives, day after day, to preserve this trust it established with its various counterparts: decision-makers, parliamentarians, regulated operators, etc.”

ART's values

Independence, expertise, transparency and dialogue are the core values that drive and guide the Authority's action in its daily work.



Independence

Independence is the first of the core values affirmed by the Authority. The Authority's independence, both from the Government and from all regulated parties and all stakeholders, is a guarantee for impartial regulation benefiting all and acknowledged by all.

Guaranteed by the status of its Board members — whose mandates are irrevocable and non-renewable, and of its staff, the Authority's independence is above all to be construed as independence of judgement, which in turn, is reflected in its opinions and decisions that are indeed grounded in the objective consideration of economic, technical, legal and financial arguments, as well as on impartially listening to all parties.

Such independence is best verified in practice as it is nurtured by the competency of Board members and staff, all stemming from a variety of backgrounds. They have now generated widely acknowledged authoritative expertise. The following elements have also contributed to lending further credence to the Authority's expertise i.e. its independent public authority status; the resources allocated to it; the code of ethics by which both the Board members and ART's staff are bound; and last but not least, the individual and collective attitude of both Board and staff.

Expertise

The Authority's ambition is to provide the sectors it regulates with universally recognised expertise, based on collective intelligence, itself resulting from the sharing of internal and external skills.

This expertise is based on in-depth investigations and a detailed knowledge of regulated markets, thus generating relevant and reasoned opinions and decisions. In this context, the Authority

seeks to approach the subjects it deals with in a multidisciplinary way in order to demonstrate the soundness of its positions. To provide for its own growth, the Authority strives to maintain and update its teams' skills, both in terms of knowledge of regulated sectors and of all the disciplines on which its action is based (economics, engineering, law, finance, etc.).

Transparency

The regulatory action carried out by the Authority is only meaningful if it can be understood by all stakeholders who fully grasp its purpose and usefulness. Hence the need to report regularly in a clear way on said regulatory action, taking care to outline its underpinnings with regard to the carrying-out of ART's specific tasks, and to communicate in a understandable and detailed manner the reasons behind the regulator's opinions and decisions.

At the same time, to enhance the transparency of regulated sectors, the Authority provides reliable and objective information and indicators on these various regulated sectors, thus informing public decision-makers, market players, users and customers. The Authority's research, reports and publications contribute to the completion of this objective. The Authority also ensures that operators fulfil their own obligations in this matter.

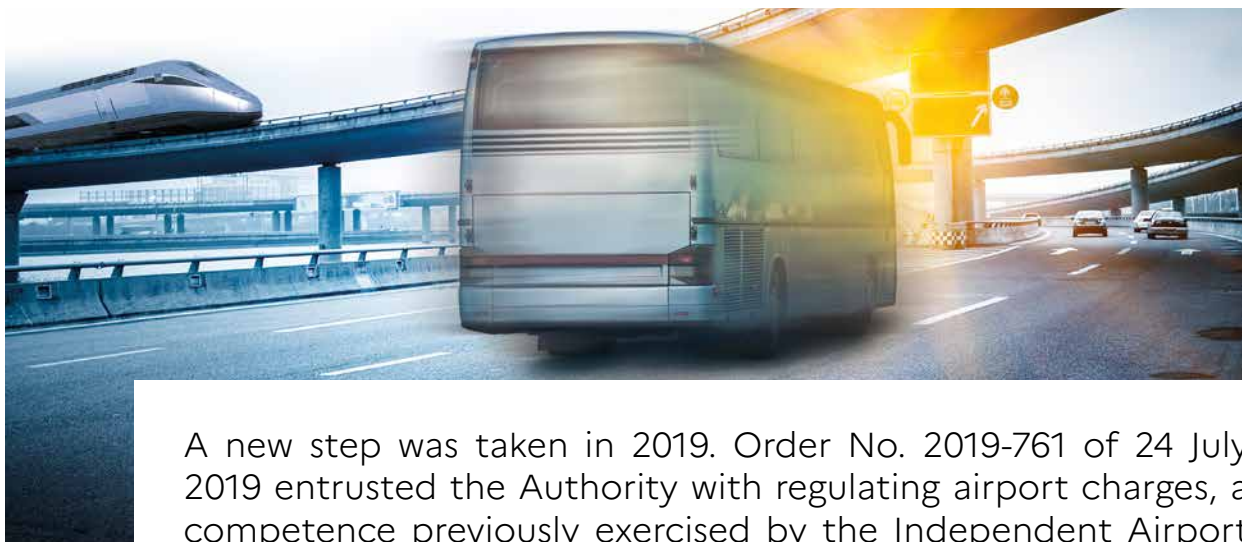
Dialogue

In order to collect all points of view, to examine topics from all relevant angles and thus be able to broaden its understanding and assessment of the main regulatory issues, the Authority is engaged in a running and constructive dialogue with all sector players, both public (Parliament, Government and administrations or administrative courts) and stakeholders, as well as with the other sectoral regulatory authorities.

The Authority listens to sector players and regularly launches public consultations to collect players' points of views on technical issues, which in turn enriches the quality of ART's opinions and decisions. This relentless search for dialogue enables the Authority to listen to the regulated sectors and hence, to heed and adapt the force of regulations to the degree of market failures identified: regulating consists in constantly adapting the force of recommended measures to the short-term context and to the medium and long-term issues and priorities.

ART's missions

When it was created in 2009, the Authority oversaw the regulating of the rail industry only, and had as its main objective, to provide support towards the opening up of the rail transport market to competition. In 2015, the French legislator decided to extend the Authority's scope of operations and include the public road transport of passenger sector and the motorway concessionaire sector: Araf (Autorité de régulation des activités ferroviaires), a sectoral regulator, thus turned into Arafer (Autorité de régulation des activités ferroviaires et routières), a regulator for multimodal transport modes.



A new step was taken in 2019. Order No. 2019-761 of 24 July 2019 entrusted the Authority with regulating airport charges, a competence previously exercised by the Independent Airport Charges Supervisory Authority (ASI). On this occasion, the Authority took on the name of Transport Regulatory Authority. Framework Act No. 2019-1428 of 24 December 2019 on mobility added to ART's remit, on the one hand the new prerogatives to be exercised in the sectors of urban public transport in the Île-de-France Region, and on the other the digital mobility services.

The rail transport sector

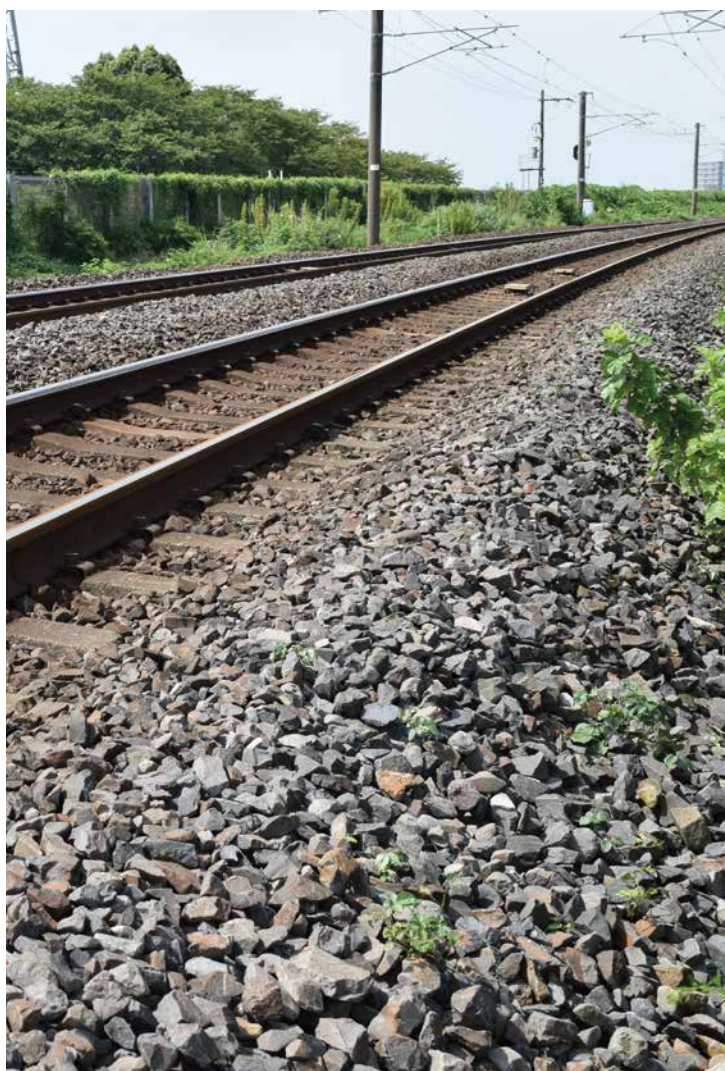
Since its creation, the Authority has supported the rail transport sector in its gradual opening up to competition. It has contributed to the proper operation of the sector's technical, economic, and financial aspects, for the benefit of both its users and customers.

The Authority ensures that conditions of entry into the national rail network, and access to rail service facilities and various associated services are transparent, fair and non-discriminatory. To this end and on a case-by-case basis, the Authority issues simple or binding opinions on charges and on conditions of access to railway infrastructure. At the same time, it monitors the independence of the infrastructure manager, SNCF Réseau, in particular through the opinion ART renders on the appointment, renewal or dismissal of SNCF's Chief Executive Officer. It also monitors the independence of SNCF Gares & Connexions, the manager of train stations. In order to avoid any risk of discrimination, cross-subsidization or distortion of competition, the Authority approves the rules of separation of accounts applicable to the public railway group's different entities.

In the context of opening up to competition, the Authority regulates rail passenger transport, notably by preparing the setting up of tools intended to substantiate and prevent possible risks of economic imbalance between public rail passenger services and non-public obligation rail passenger transport services. The Authority also verifies the conformity of a direct award of public service contracts by a Public Transport Authorities (PTA) against all derogation conditions laid down by Community regulations.

Where necessary and when cases are

referred to the Authority, it settles disputes between railway undertakings, Public Transport Authorities (PTAs), infrastructure managers and service facility operators. It can initiate a sanctioning procedure in the event of a breach of the rules on access to or use of the rail network or service facilities.



The Authority monitors SNCF Réseau's financial trajectory, issuing, among other documents, an opinion on its annual budget, on the draft performance contract between the State and SNCF Réseau and on public aid granted to the infrastructure manager in the case of investments over €200 million. It also issues an opinion on the draft performance contract between the State and SNCF Gares & Connexions.

The Authority is tasked with general monitoring of conditions of entry into the network. In this capacity, it may formulate and publish recommendations, after having carried out all consultations it considers warranted with rail transport sector players.

Furthermore, and without prejudice to the powers of the French Competition Authority, ART monitors the situation relating to competition on the rail services markets, carrying out studies and research which it then passes on to the industry in a transparent manner to enable effective opening up.

In concert with its British counterpart and within the framework of the bi-national committee, the Authority co-regulates the Channel Tunnel. Furthermore, working at European level, the Authority takes part in the activities of forums for dialogue and coordination, such as IRG-Rail, the European network of independent rail regulators, and ENRRB, the network of rail regulators created and run by the European Commission.



“ The Authority monitors SNCF Réseau's financial trajectory, issuing, among other documents, an opinion on its annual budget and on the draft performance contract between the State and SNCF Réseau. ”

The road passenger transport sector

The Authority regulates regular intercity road passenger transport services that provide services for routes under one hundred kilometres, thus contributing to the proper operation of the market for the benefit of both users and customers. Within this framework, it sets up tools intended to objectify and prevent possible risks of economic imbalance in public transport services caused by non-public service obligation transport services.

The Authority is also tasked with the regulation of coach terminals and road passenger transport facilities, in particular by monitoring access rules, ensuring effective competition for the benefit of transport service users. The Authority settles disputes between transport operators and station managers when these disputes are referred to it.

Finally, the Authority is tasked with the general mission of monitoring the market. In this context, it draws up an annual report on non-public service obligation transport services for road passenger. At the same time, the Authority is entitled to collect data, carry out expert assessments and conduct studies and all necessary information actions pertaining to the regular intercity road passenger transport service sector.



The motorway sector

The Authority watches over the proper running of the motorway toll rate system. It is therefore consulted on draft concession contracts and amendments to existing contracts when these have an impact on toll rates or concession duration.

The Authority is tasked with monitoring the economic and financial aspects of this sector. Each year, it draws up a summary of the concessionaires' financial accounts and monitors the internal profitability rates of each concession, and at least once every five years, it publishes a public report on the general economics of delegation contracts.

The Authority also oversees genuine and fair competition in the awarding of procurement contracts by motorway concession companies (MCCs). In this context, it gives its binding opinion on the composition of MCC's procurement committees as well as on their internal rules. In the event of a failure to comply with their advertising and competitive tendering obligations, the Authority is empowered to initiate proceedings as specified by the regulations in force. The Authority also oversees genuine

and fair competition in the awarding of procurement contracts by motorway concession companies.

In parallel, the Authority monitors award procedures for contracts awarded by MCCs for the operation of ancillary commercial facilities, ensuring in particular, compliance with a fair pricing strategy for the distribution of fuel, for the direct benefit of motorway users.

Within this framework, the regulator draws up an annual report on both procurement contracts for works, supplies and services on the one hand, and on the other, for operating contracts awarded by MCCs.

More generally, to be able to carry out its missions, the Authority is entitled to collect data, carry out expert appraisals and conduct studies and all necessary actions seeking information from the motorway concession sector.

“ The Authority also oversees genuine and fair competition in the awarding of procurement contracts by motorway concession companies. ”





The airport sector

The Authority regulates airport charges for airports where annual traffic has exceeded five million passengers for one of the previous five calendar years; and for airports which are part of a system of aerodromes comprising at least one aerodrome where annual traffic has exceeded five million passengers in one of the previous five calendar years.

Within this framework, the Authority approves annual charging schemes for airport charges submitted to it or sets these rates if the last certification dates back more than 24 months. In addition, the Authority issues a binding opinion on draft economic regulation contracts (contrat de régulation économique - CRE) concluded between airport managing bodies and the State, represented by the Minister for Civil Aviation. These contracts define the increase of charges over five years. When drawing up a draft contract, the Minister for Civil Aviation may consult the Authority, which will

“ The Authority approves annual charging schemes for airport charges submitted to it or sets these rates if the last certification dates back more than 24 months. ”

then issue a reasoned opinion on the weighted average cost of capital to be factored into the draft contract.

In the performance of its duties, the Authority is empowered to carry out investigations and make enquiries, as well as to enforce sanctions in the event of identified breaches.

Finally, working in conjunction with the Swiss Federal Office of Civil Aviation (FOCA), the Authority co-regulates the charging schemes for airport charges at the Basel-Mulhouse airport. The Authority also takes part in European dialogue and coordination forums such as the Thessaloniki Forum of Airport Charges Regulators, organized by the European Commission's Directorate-General for Mobility and Transport. The Forum brings together the independent supervisory authorities for airport charges of all EU Member States.



The urban public transport sector in the Île-de-France Region

The Authority regulates the activities carried out by the Régie Autonome des Transports Parisiens (RATP) as infrastructure manager for the historic metro and RER networks, and as technical manager for the Greater Paris public transport network. The Authority also regulates the security services provided by RATP's internal security service (the network protection and safety group — GPSR).

In this capacity, the Authority ensures that operators on the Greater Paris public transport network are treated in a transparent, fair and non-discriminatory manner and, in this context, ART issues a reasoned opinion on the Network Statement of said Greater Paris public transport network.

It issues a binding opinion on the setting of remuneration amounts paid out to RATP for its activities as infrastructure manager of both the historic metro and RER networks and as technical manager of the Greater Paris public transport network, as well as on the GPSR tariff rates for their security services.

The Authority also approves the rules for the separation of accounts between the RATP activities carried out as transport operator, and activities of infrastructure management and of technical management of the Greater Paris public transport network and finally security activities. More generally, the Authority has supplementary regulatory powers and specifies, where necessary, the rules governing the scope of the separation of accounts, the rules for budget item allocation and the principles governing financial relations between these different activities.

The Authority settles referred disputes involving RATP, Île-de-France Mobilités and any operator of the Greater Paris public transport network; it is also empowered to initiate enforcement measures when necessary.

The Authority may collect data, carry out expert appraisals and conduct studies as well as all necessary actions to seek information on the urban public transport sector in the Île-de-France Region.

The digital mobility services sector

Pursuant to and in line with the provisions of the European Commission's Delegated Regulation (EU) 2017/1926 of 31 May 2017, the Mobility Act strengthens the obligations incumbent on public and private transport services to allow access to travel data required for the information of passengers and the development of digital mobility services. In this context, this Act also provides for access to real-time data and for an earlier across-the-board release set for 1 December 2021. This includes static and dynamic travel and traffic data for the various modes of transport offering both scheduled and on-demand services, as well as data on road, bicycle and pedestrian networks, or pertaining to travel for persons with mobility impairments.

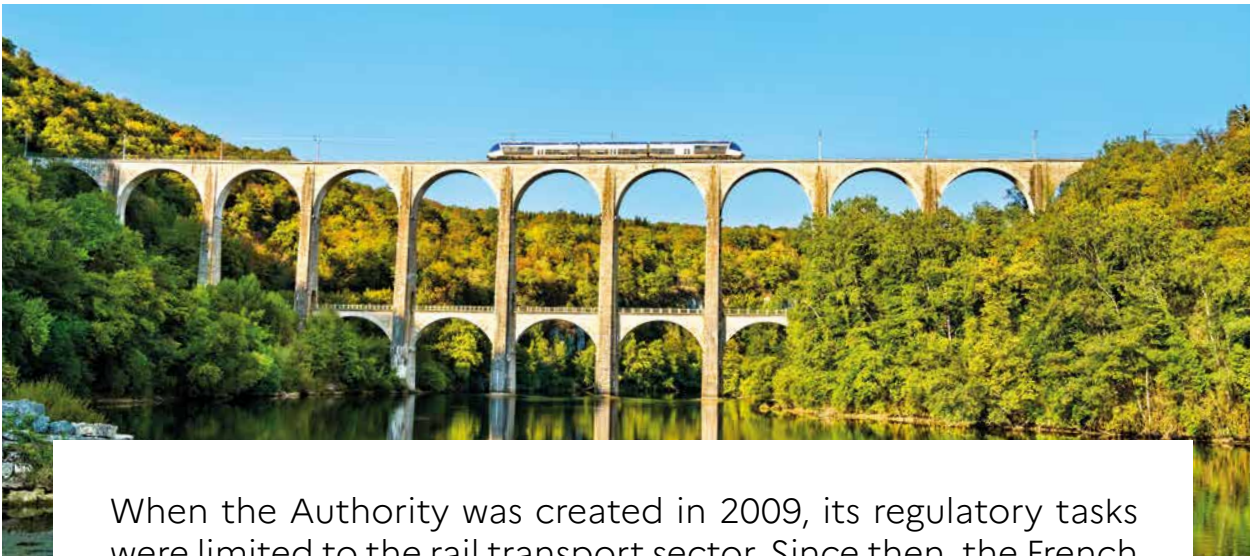
To facilitate user access to information through the development of new mobility services, the Authority ensures that data is effectively made available, that it is format compliant, that it is up to date and of high quality, and that all re-users concerned provide data in a neutral, transparent, and non commercially-biased manner. To carry out these tasks, the Authority has prerogatives to control data compliance, including the settlement of disputes and the power to enforce sanctions.

Lastly, the Authority monitors the development of digital sales services also known as MaaS — Mobility as a Service, which are multimodal transport platforms that make available several mobility offers in a single application. In this context, the Authority is empowered to control, settle disputes, and enforce sanctions.



Four core pillars underpin the Regulator's activities

The four core pillars of the Authority's activities comprise improving the knowledge available on regulated markets; maintaining a fair and competitive framework; reducing information asymmetries; and ensuring that tariffs introduced give out relevant and consistent economic signals.



When the Authority was created in 2009, its regulatory tasks were limited to the rail transport sector. Since then, the French legislator has empowered the Authority with new prerogatives, leading to a gradual extension of its scope of intervention, which at first encompassed the public road passenger transport and motorway concession sectors in 2015, then the airport sector, the urban public transport in the Île-de-France Region and digital mobility services in 2019 and 2020.

Since the Authority is involved in the monitoring and smooth operation of the market in all these sectors for the benefit of both players and users, it ensures that its monitoring and regulatory action is conducted within a multimodal approach. Hence, the overarching task of observing data, conferred on the regulator by the legislator, is particularly important, not only because of its cross-cutting nature, but also because it is one

of the premises of the four core pillars that guide the regulator's action:

- Improving knowledge about the regulated markets.
- Maintaining a fair competitive framework.
- Reducing information asymmetries.
- Ensuring the introduction of charging schemes which provide relevant and consistent economic signals.

Developing and deepening the understanding of supply and demand in regulated markets

In order to fully carry out the regulatory tasks entrusted to it by the legislator for the benefit of both players and users, the Authority is developing and consolidating its knowledge of mobility infrastructures and services (in terms of both supply and demand) and, more generally, of the economic environment of all the regulated sectors. Its prerogatives in terms of data and information collection enable it to carry out all the necessary cost and price analyses, to develop counterfactual models and cost models and to carry out the necessary market tests. These same prerogatives also give the Authority the possibility of analysing trends in mobility behaviour, including in a multimodal approach.

The Authority's action is grounded in a forward-looking vision of the transport sector, in particular by questioning the potential impact of certain technological developments or societal disruptions. The construction of this forward-looking vision necessarily involves a multimodal approach since traffic and industrial organisation of the sector depend specifically on the demand for transport

by any and all modes as well as on the supply offered by competing modes.

The studies and analyses carried out by the Authority as independent regulator, based in particular on the collected sectoral data, are a means of assessing public policies; of helping towards a more objective public debate; and of guiding in public decision making.

Furthermore, by disseminating indicators feeding information on the level and evolution of the performance of regulated players, the Authority intends to trigger "reputational incentive" mechanisms and implement a regulatory approach based on evidence-informed transparency.





Four core pillars underpin the Regulator's activities

Developing and maintaining a fair and competitive framework

In sectors where fixed costs are high, where difficulties in accessing so-called essential infrastructure or the very existence of barriers to entry may restrict competition in downstream markets, the Transport Regulatory Authority contributes, for the benefit of users and the community, to the identification and removal of barriers that could limit entry into these markets and lay a burden on their proper operation.

Thus, in the Île-de-France rail and guided transport sector, the Authority ensures that operators have fair, transparent and non-discriminatory access to all essential infrastructure (particularly networks and service facilities). Consequently, the Authority helps remove all obstacles likely to compromise or limit the exercise of effective competition. It also helps set entry rules guaranteeing the previously mentioned transparency and non-discrimination aspects. As such, it ensures the independence of all managers of these infrastructures, striving to maintain a vertical separation between the management activities of these infrastructures and the activities relating to the operation of transport services. At the same time, the Authority makes sure to strengthen the guarantees of organizational and decision-making independence of the infrastructure and facilities operators concerned (particularly in terms of

their own technical, financial, and human resources). More generally, the Authority strives to reduce all barriers that may hinder entry into markets, whether technological, regulatory or informational barriers and whether they involve tariffs and charges or not.

In the recent context of liberalisation of intercity road passenger transport, the Authority has also become committed to assisting coach terminal operators in implementing good practices to facilitate access for operators and to prevent the development of any discriminatory practices.

With regard to both the rail sector and the intercity road passenger transport sector, the Authority makes sure that the boundaries between public services and non-public services are properly defined, taking care to maintain a balance between protecting the economic and financial model of the former and developing the latter in the context of an opening up to competition, for the benefit of users and the community.

Finally, the Authority monitors the awarding of contracts by motorway concession companies. By preventing, detecting, and enforcing sanctions for anti-competitive behaviour where necessary, it ensures transparent and fair procurements and contracts awarded by these MCCs. In this highly concentrated sector, marked by significant structural specificities, the Authority endeavours to adapt its control strategy based on sector trends, on company practices and on competitive issues.

“The Authority has become committed to assisting coach terminal operators in implementing good practices, to facilitate access for operators and to prevent the development of any discriminatory practices.”

Reducing information asymmetries

For the benefit of users and the community, in sectors that can be construed as «natural monopolies» as per economic theory, and that have historically been marked by a high degree of concentration around a limited number of players, the Transport Regulatory Authority also seeks to reduce information asymmetries existing between public authorities and infrastructure managers or service facility operators, and between new entrants and incumbent operators.



Thus, in its capacity as regulator of the rail and guided transport sectors in the Île-de-France Region, the Authority ensures that the current information imbalance existing between the incumbent operator benefiting from a privileged position, and the transport organising authorities and new operators, is corrected. The concept of information must be construed in the broadest sense of the term, inclusive of operational information pertaining to infrastructure technical characteristics as well as to data concerning potential or active customers. The Authority's action is therefore aimed at eliminating any informational rent enjoyed by the incumbent operator and, at the same time, this action aims at broadening access to all useful data, which is a prerequisite for a successful opening up to competition.

As regards the motorway concession sector, information asymmetry between the MCCs and the conceding authority (in this case the State represented by the French Ministry of Transport) has also been noted, which may place said conceding authority in an unfavourable position when negotiating contracts and their amendments. In this context, the Authority contributes to ensuring an economic and financial monitoring of the sector, hence providing an objective and neutral view of the sector's organisation, performance and challenges that it faces.

Four core pillars underpin the Regulator's activities

Ensuring the introduction of charging schemes which provide relevant and consistent economic signals

Finally, in the sectors it regulates, the Transport Regulatory Authority ensures that charging schemes are transparent, non-discriminatory and send price signals that allow markets to function efficiently, for the benefit of both users and the community.

In the Île-de-France rail and guided transport sector, the Authority wishes to encourage all managers of essential infrastructures — on the network or at service facilities, to introduce transparent and relevant charging schemes. This should not only encourage new operators to enter the market but should also bring about major structural changes for these infrastructure managers by encouraging efficient and effective management practices. Such an objective entails the adoption of charging schemes adjusted to levels or structures. It also implies efficient management, with the establishment of a multiannual charge to reduce the uncertainty experienced by new entrants and ensure the necessary predictability required by all operators concerned.

The Authority pursues a similar objective in the road passenger transport sector, contributing to the introduction, by coach terminal operators, of objective and transparent charging schemes.

Concerning the motorway concession sector, the Authority endeavours to reach this same objective of transparency in its regulation of toll rates, by ensuring specifically that the public decision-maker is informed and that prior to signing amendments to contracts, there is a fair balance between the extent of any increases envisaged and the cost of additional investments to be made by concessionaires.

Finally, the Authority monitors the implementation of an optimal, transparent and non-discriminatory regulation of airport charges, that maintains the balance between the interests of all stakeholders, in this case airport infrastructure operators, airlines and users.

“The Authority pursues this same objective of transparency in its regulation of toll rates, particularly ensuring that the public decision-maker is informed.”



Publishing the 2021-2022 strategic guidelines

The publication of its reference document on 18 February 2021 gave the Transport Regulatory Authority (ART) the opportunity to disseminate its 2021-2022 strategic guidelines and their various applications. Without exhausting the subject, the Authority wished to translate in its work programme of the years to come, of its missions, values, and the core pillars underpinning its work.



The Authority's strategic guidelines for 2021-2022 are organised around:

- Sectoral guidance for each of the six sectors under regulation, illustrated by some of the main applications to be found in the Authority's work programme for that period.
- Cross-cutting guidelines associated with the Authority's financial, legal and market monitoring approaches.

Responding to emerging global challenges: data-driven regulation, the fight against climate change and the impacts of the health crisis

The strategic guidelines specific to each of the Authority's six sectors under regulation, should facilitate a response to emerging issues challenging sectoral regulations. These guidelines will contribute to:

- Intensifying data-driven regulation as a new regulation modality.
- The fight against climate change which, although not at the heart of the

Authority's missions, is nonetheless a timely issue to be factored in by the regulator.

- A better understanding of how the health crisis impacted the regulated sectors and when necessary, how to adapt regulation.

Responding to major sectoral and cross-cutting issues

These strategic guidelines should enable sector-specific responses to the following main challenges:

- Contribute to the development and performance of the rail mode, for the benefit of the user, in the context of opening the domestic passenger transport market to competition.
- Implement the regulation of RATP activities as per the Mobility Act.
- Strengthen control and regulation of the motorway concession sector; and continue to contribute to structuring the sector's organisation once current concessions end.
- Improve current regulatory framework enforcement in road passenger transport; and develop a forward-looking vision of changes to be introduced in this sector and in its regulation.
- Strengthen airport sector regulatory tasks by drawing from lessons learned during ART's first year of regulatory activities; and contribute to the improvement of the regulatory framework.

- Complete preparations for the implementation of regulation in the digital mobility services sector, as entrusted to the Authority by the Mobility Act; and initiate first controls.

Sectoral guidance policies are supported by the following five cross-cutting guidelines:

- Fight against monopoly rents whilst ensuring operators a level of profitability enabling them to finance their investments.
- Use all powers devolved to the regulator more effectively; and contribute to further improving legal texts and their interpretation for the benefit of the Authority's regulatory mission.
- Acquire a cross-cutting view of the various transport markets.
- Encourage widespread use of the data published by the Authority.
- Strengthen the Authority's engagement towards all stakeholders.

Planning for new regulatory missions

In 2020, the Authority planned for the carrying out of the new regulatory missions entrusted to it by the Mobility Act, particularly in conjunction with RATP. The Authority has begun to plan the control modalities to be carried out on digital mobility services by (a) recruiting new expertise in mass data processing, (b) strengthening its legal expertise, and (c) getting closer to some of the key players in the digital mobility services sector.



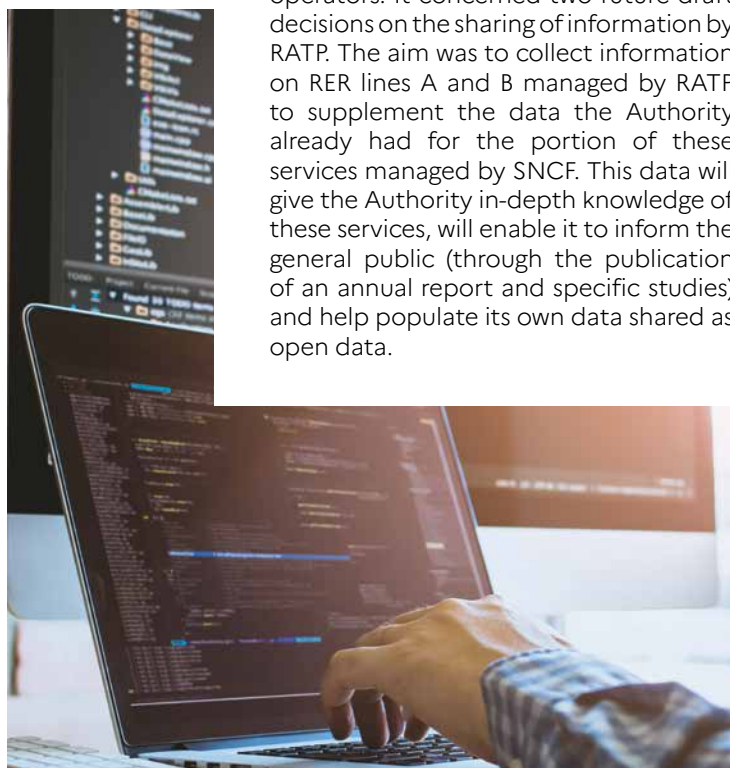
The regulation of activities provided by RATP in the Île-de-France area as infrastructure manager, technical manager, and security services manager

In this context, the Authority carried out a pre-investigation of the rules required for drawing up separate accounts for each of RATP's activities — transport operator, infrastructure manager, technical manager, and manager of security services. This led to a referral to the Authority on 30 December 2020, following the publication of Decree No. 2020-1752 of 28 December 2020 on the infrastructure manager activities of the Régie autonome des transports parisiens (RATP).

Planning for new regulatory missions

The late publication of this decree due to the health crisis, explains why the matter of the remuneration of RATP's activities as infrastructure manager was not referred to the Authority by 30 June 2020, as had been provided for by the Mobility Act, under the multiannual agreement running from 2021 to 2025, to be signed between RATP and Île-de-France Mobilités, in accordance with Article L. 2142-3 of the French Transport Code.

Finally, as part of its mission to monitor the markets within the urban public transport sector in the Île-de-France area, the Authority launched two public consultations in December 2020; one was aimed at infrastructure managers and the other at RER lines A and B transport operators. It concerned two future draft decisions on the sharing of information by RATP. The aim was to collect information on RER lines A and B managed by RATP to supplement the data the Authority already had for the portion of these services managed by SNCF. This data will give the Authority in-depth knowledge of these services, will enable it to inform the general public (through the publication of an annual report and specific studies) and help populate its own data shared as open data.



Digital mobility services

The Authority has started to prepare the modalities for the controls it will carry out by recruiting staff with expertise in big data processing. These recruits have started to develop the tools and computer programmes required for data monitoring. ART has also strengthened its legal expertise on these new topics. Furthermore, the Authority contacted the MaaS Observatory (Mobility as a Service), set up by Cerema² and GART (Groupement des autorités responsables de transport — Grouping of transport authorities) to monitor the development of these multimodal transport platforms which dovetail all mobility offers into a single application. Lastly, the Authority issued two opinions on the draft decree on the conditions implementing Articles L. 1115-1, L. 1115-3 and L. 1115-5 of the Transport Code.

The Authority welcomes the fact that only real-time or dynamic data may be subject to financial compensation and that the thresholds and characteristics triggering this compensation, are set out precisely and clearly in the regulations.

Two drafts of the decree implementing Articles L.1115-1, L.1115-3 and L.1115-5 of the Transport Code were successively submitted by the Ministry of Transport to the Authority, which issued two opinions, one consistent with the other: (a) Opinion No. 2020-050 dated 3 September 2020 and (b) Opinion No. 2020-081 dated 10 December 2020.

² The Centre d'études et d'expertise sur les risques, l'environnement, la mobilité et l'aménagement (Centre for Studies and Expertise on Risks, the Environment, Mobility, and Urban Planning) is a public institute dedicated to supporting public policies, placed under the dual supervision of the Ministry of Ecological Transition and the Ministry of Territorial Cohesion and Relations with Territorial Communities.

In this first Opinion, the Authority had noted that the draft Decree referred the matter of specifying threshold levels triggering financial compensation to an Order. This was in breach of the provisions of Article L. 1115-3 of the Transport Code, according to which characteristics and levels of said thresholds must be defined in a Decree issued by the Council of State after obtaining an opinion from the Authority. The Authority thus considered that the wording of the draft Decree submitted to ART for an opinion, did not allow it to issue that opinion, particularly on the level of thresholds intended to trigger financial compensation.

Consequently, a second draft Decree was submitted to the Authority on 30 October 2020. In its second Opinion, the Authority noted the following with satisfaction:

- Only real-time or dynamic data may be subject to financial compensation, provided the thresholds intended to trigger such compensation are exceeded. This choice is consistent with the logic of the French legislator who, in Act 2015-990 of 6 August 2015 on growth, activity and equal economic opportunities, intended to make 'free access to data' a principle and 'recourse to financial compensation' the exception.
- Thresholds triggering financial compensation, as well as their characteristics, are stated precisely and clearly. Hence, the Authority considers that the draft Decree guarantees that all users have access, in a transparent and non-discriminatory manner, to all updated dynamic data, enabling them to access full information free of charge as long as the thresholds have not been exceeded.

- The application of thresholds differentiated according to the relevant categories of services is, in practice, justified by the fact that the number of updates required to obtain comprehensive information varies according to the type of data.

The Authority indicated however the need to clarify or specify certain aspects, in particular:

- The terminology used for categories of service, by referring to the categories listed under Article L. 1115-1 of the Transport Code or paragraph 2 of the Annex to the European Commission's Delegated Regulation (EU) 2017/1926 of 31 May 2017, ensuring that the exact terms found in these texts are used.
- The costs to be considered and, more broadly, the methodology for calculating financial compensation.
- The arrangements for the Authority's access to data when fulfilling its supervisory tasks, given the very large volume of data to be monitored.

The Authority regrets that its proposals were only very partially taken up in Decree No. 2020-1753 of 28 December 2020 on specific conditions for the availability of digital data for easier travel. Thus, data producers will need to comply with provisions that could have been more coherent or that lack precision. Furthermore, concerning the Authority's control procedures, its proposed approach, better suited to large volumes of data, would have allowed a more effective control. It would also have ensured that all travel data required to inform passengers be published, interoperable, of high quality and up to date.

The regulation of the rail transport market





The regulation of the rail transport market

In an unprecedented crisis context, the Authority is consolidating its diagnostic work and its development of recommendations to help provide railway undertakings with transparent, fair, and non-discriminatory conditions of access to railway infrastructure.

The quality of the operational, technical and pricing conditions for access to the rail network is a major challenge to ensure the development of rail transport in France, for both freight and passenger transport.

Through its action, the Authority contributes to the proper operation of the national rail transport system, for the benefit of users and customers of rail transport services. It also contributes in the opening up to competition of domestic passenger transport.

• RAIL NETWORK •

28,100 km
of lines

49,500 km
of tracks



70%
of electrified tracks

2,820
regularly serviced rail stations

€5.9 bn
in charges levied from
railway infrastructure

• RAIL PASSENGER TRANSPORT SERVICES •

99

billion passenger-km
19.5 billion for Greater Paris
Suburban Services and RER
Railway Services operated by
SNCF Voyageurs and RATP
or
14 billion for Greater Paris
Suburban Services and RER
operated by SNCF Voyageurs

€14.3 bn

in revenues
incl. 38.7% from the public sector

€9.4

in earnings
per passenger per 100 km

• RAIL FREIGHT TRANSPORT SERVICES •

€1.1 bn

in direct revenue
from traffic (Réseau Ferré
National, i.e. French
National Rail Network)

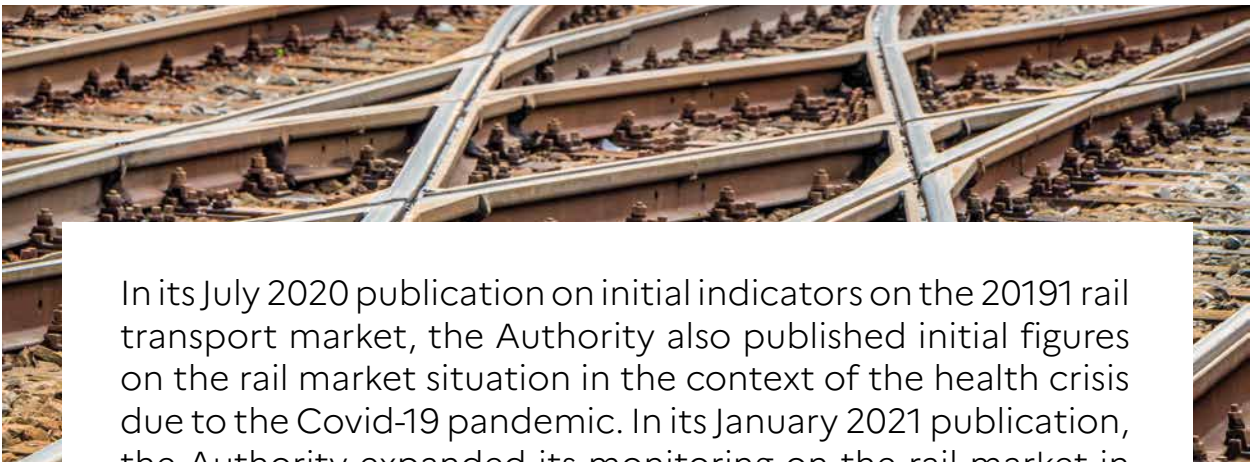
32.5

billion tonnes-km transported

45% of trains-km run by operators
other than the incumbent operator
and of which 30% are companies
independent from the incumbent
operator

Rail transport heavily impacted by the health crisis

Among the missions entrusted to the Authority by the legislator is first and foremost that of contributing to «the monitoring and proper operation, in its technical, economic and financial dimensions, of the national rail transport system, in particular the public service system and competitive activities, for the benefit of users and customers of rail transport services» — Article L. 2131-1 of the French Transport Code.



In its July 2020 publication on initial indicators on the 2019¹ rail transport market, the Authority also published initial figures on the rail market situation in the context of the health crisis due to the Covid-19 pandemic. In its January 2021 publication, the Authority expanded its monitoring on the rail market in the first half of 2020² and included (a) initial figures on the health crisis, (b) a comparison between France and Europe and (c) an initial update on the second half of 2020.

¹ https://www.autorite-transports.fr/wp-content/uploads/2020/07/bilan-ferroviaire-2019_chiffres_mi-annee.pdf

² <https://www.autorite-transports.fr/wp-content/uploads/2021/01/plaquette-bilan-s1-2020.pdf>

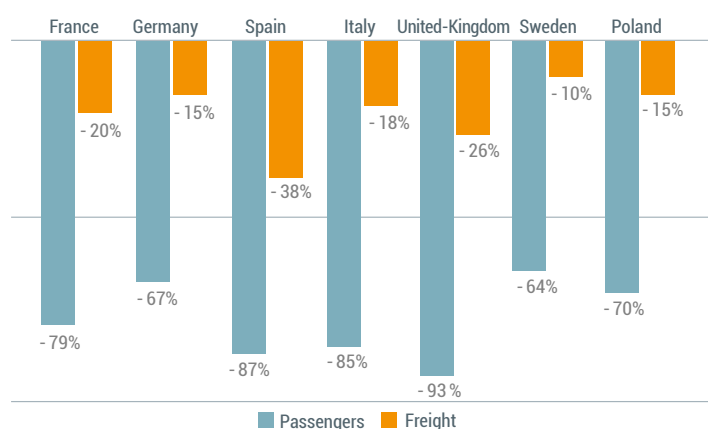
The lockdown period during the first half of 2020 has led to a sharp fall in rail traffic volume compared with 2019 — almost 78% fewer trains on the most impacted day, in the middle of the first lockdown, with a significantly lower impact on freight activity than on the supply of passenger transport, i.e., minus 24% compared with minus 48% from March to June 2020.

Ridership on trains collapsed more than services did, falling by 95% in April 2020 compared to 2019. Ridership on international services is the slowest to recover (the international ridership rate in June 2020 is 18% of what it was in June 2019, against 46% for domestic high-speed compatible train services). The occupancy rate on domestic commercial services has proven to be the rate that has held up best during lockdown — in April it remains above 50%.

During the first half of 2020, rail freight transport suffered the same impact as road transport, both modes falling by 17% and 16% in tonnes-km respectively.

When considering other European countries, passenger rail transport falls in a fairly comparable way in France, Italy and Spain during the second quarter of 2020, and more markedly so than in Germany and Sweden. In all European countries, the downward trend of freight traffic is far less marked than for the passenger activity.

Trends in rail passenger ridership (in passenger-km) and freight (in tonnes-km) per European country: 2nd quarter of 2020 compared to 2nd quarter of 2019



Source : ART for France and Eurostat

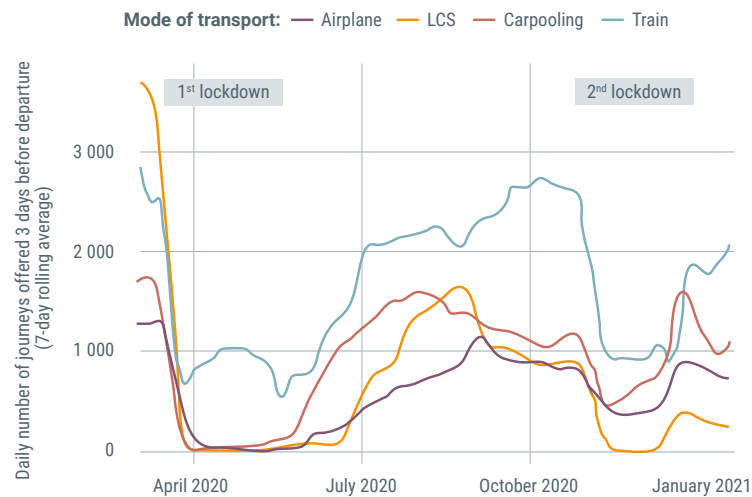
Rail transport heavily impacted by the health crisis

Rail passenger transport services have continued to grow over the summer and at the beginning of the fourth quarter, unlike the other transport modes, which began to decline from August onwards. They do not seem to have recovered their levels of the beginning of 2020 during this period.

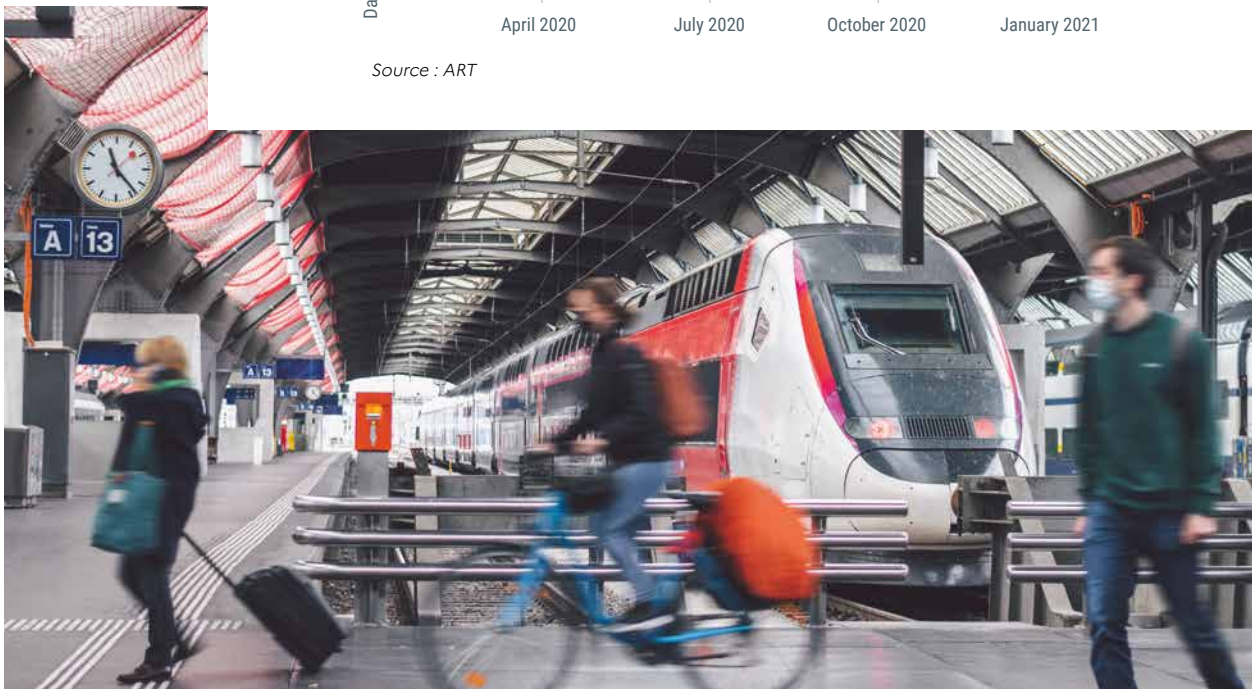
A sharp plunge is observed again during the second lockdown, before a strong recovery enhanced by a peak in long-distance transport demand during the end-of-year holidays in 2020.

Number of journeys offered per transport mode from the panel of routes surveyed before and after lockdown periods

(Overall observation period between 1 March 2020 and 14 January 2021)



Source : ART



The rail transport market in 2019

In its 2019 market analyses, the Authority included both passenger and freight rail transport activities, as well as the entire scope of the Greater Paris regional express network (RER) operated on the French National Rail Network (RFN) and on the network of the Paris Public Transport Operator (RATP).



The share of small lines remains significant but is in no way homogeneous

The overall age of the national rail network (RFN) remains stable at almost 29.2 years and 1,000 km of so-called small lines³ closed to traffic since 2015. At the end of 2019, RFN was comprised of 28,100 km of lines in operation (49,500 km of track), at a relatively stable level since 2015. Use of the network remains highly concentrated, with 38% of the lines used by 80% of the trains and 90 journeys per day on average.

Conversely, 20% of the lines are used by only 1% of trains-km and less than 10 trains per day on average. Maintaining the network's age between 2018 and 2019 is mainly due to SNCF Réseau's maintenance activities.

³ Small lines are line categories 7 to 9, according to the SNCF Réseau classification.

The rail transport market in 2019

«Small lines» make up 29% of the RFN network: 14,300 km of tracks, of which 11,600 km are available to passenger services. While there are significant differences between “small lines” and other types of tracks (age, equipment, speeds and slowdowns, traffic), there are also differences within these «small lines». Rail stations located on these lines serve almost exclusively express intra-regional trains (TERs) or Intercités passenger services and account for only 2% of the overall ridership.

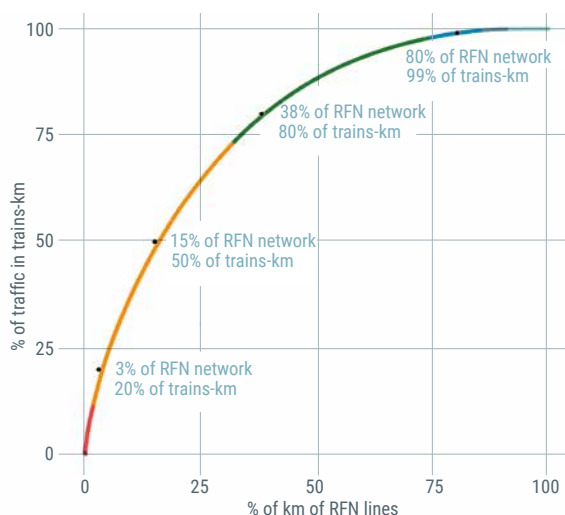
Infrastructure managers have levied €5.9 billion in infrastructure charges. One third of these is paid as access charges, by the State (for TERs and Intercity services) and by Île-de-France Mobilités (for Greater Paris suburban railway services — Transilien). In 2019, SNCF Réseau’s operating costs reach €4.6 billion, including 59% for network maintenance and 22% for operational traffic management.

The annual amount for network maintenance ranges from €13,000 per kilometre of track for the least used categories of lines (categories 7 to 9 without passengers) to almost €60,000 for the most heavily used categories (categories 2 to 4). SNCF Réseau’s investments in 2019 amount to €5.4 billion, up by more than €600 million compared to 2018, allocated to the most heavily used sections of RFN. The main investment expenditure is for «renewal and performance» (€2.7 billion) and targets the regeneration and replacement of infrastructure components.

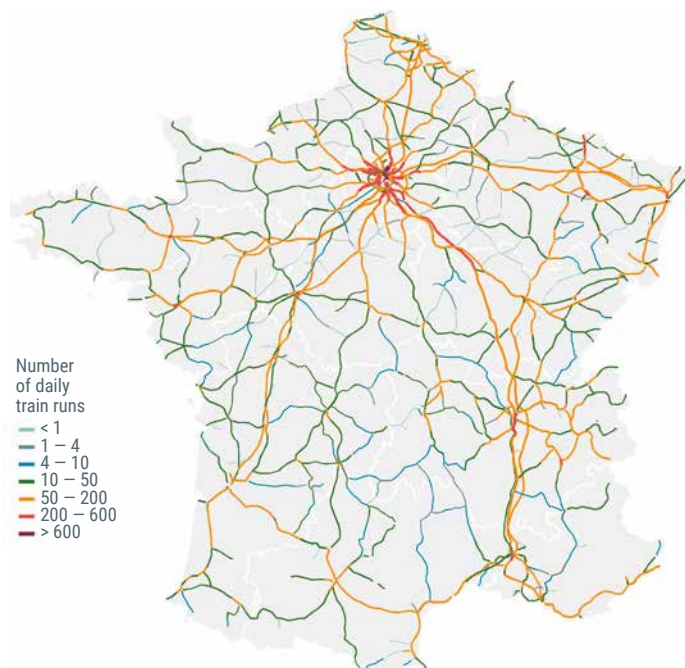
“ Small lines make up 29% of the RFN network. ”

Traffic density per kilometre of line on RFN in 2019

(Average number of trains per day, regardless of the number of tracks)



Source : ART based on SNCF Réseau information

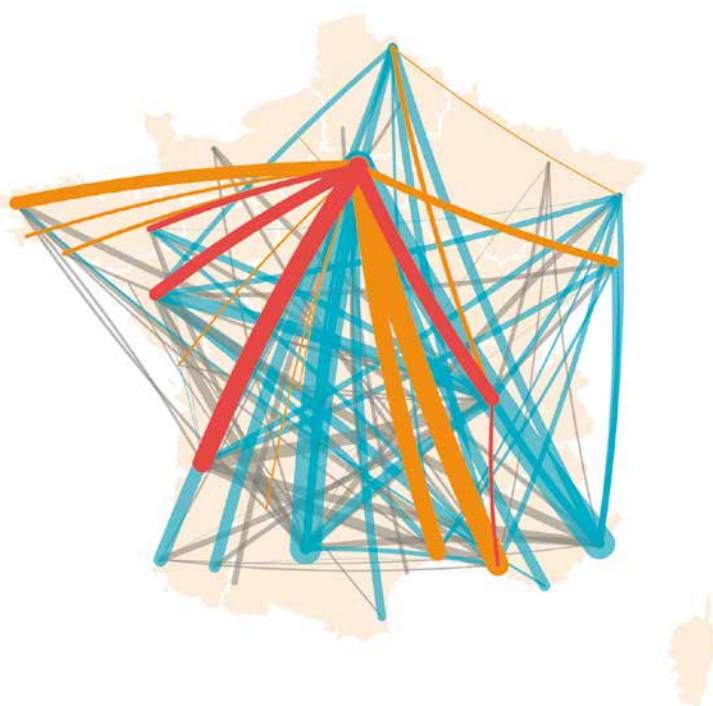


Train journeys of less than 4 hours: the dominant share versus air transport

From 2015 to 2019, domestic passenger transport saw a significant increase for both rail (plus 1.7% per year) and air (plus 2.8% per year) modes. The modal share of rail transport in France is set at 10% in 2019, 2 points higher than the average for European countries.

On domestic train journeys of less than 4 hours, where the rail mode is in competition with the air mode, the rail mode accounts for (a) nearly 90% of cumulated rail and air traffic on journeys of less than 2.5 hours, and (b) it accounts for nearly 85% of that traffic on journeys of less than 4 hours.

Map of domestic flights in 2019
(intra-metropolitan France, excluding Corsica),
average travel time of matching rail connections



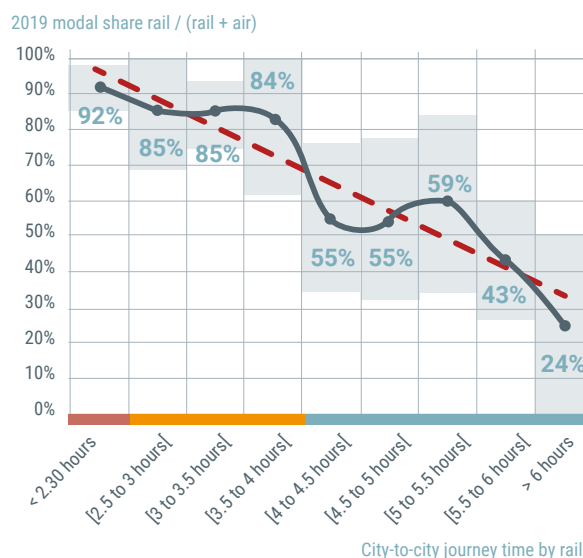
Air travel in 2019

- 1 million passengers
- 2 million passengers
- 3 million passengers

Domestic airline routes

- ...with a rail journey alternative < 2.5 hours
- ...with a rail journey alternative < 4 hours
- ...with a direct rail journey alternative < 4 hours
- ...without a direct rail journey alternative

**Average modal share of rail transport
per type of journey**



Source: ART based on data from DGAC (French Civil Aviation Authority) and railway undertakings

Complementary information on the map: 17 domestic flights (orange and red lines) operated in 2019 have a matching direct rail alternative (with no connection) to / from the main cities along the flight routes, reachable in less than 4 hours on average, by high-speed compatible trains (TAGVs). Airline routes with a matching rail journey alternative within 2.5 to 4 hours offer a modal share of 85% on average, of rail over air.

The rail transport market in 2019

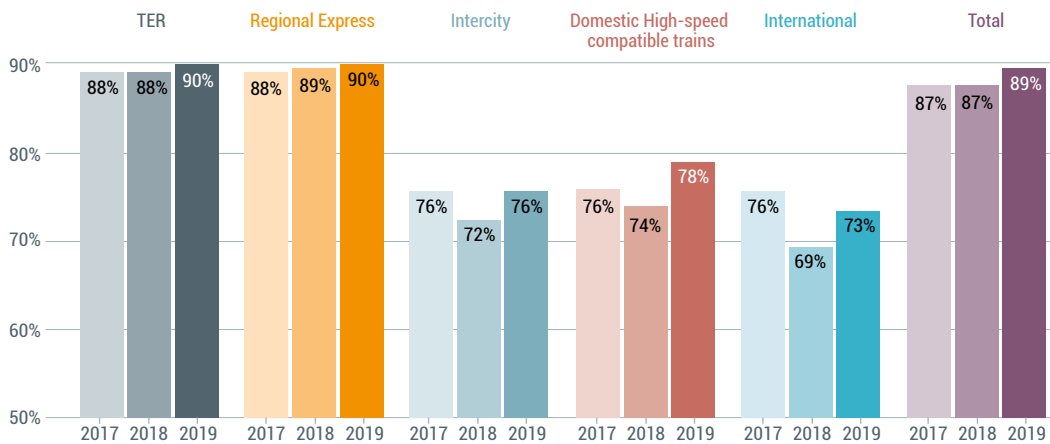


A sharp increase in passenger traffic despite social movements at the end of the year

The impact of social movements on the rail offer was almost as strong in 2019 as it was in 2018 compared to 2017 (minus 25% trains-km during the fourth quarter of 2019 compared to 2018). Ridership dropped by «only» 15% during

the impacted quarter. Punctuality rate at the five-minute threshold improved significantly for all rail services and regions serviced.

Punctuality rate from 2017 to 2019 per type of service⁴



Source: ART based on data from SNCF Réseau

Complementary information on the bar chart: in 2019, 90% of Regional Express Trains arrived at their terminus within 5 minutes of their expected time of arrival.

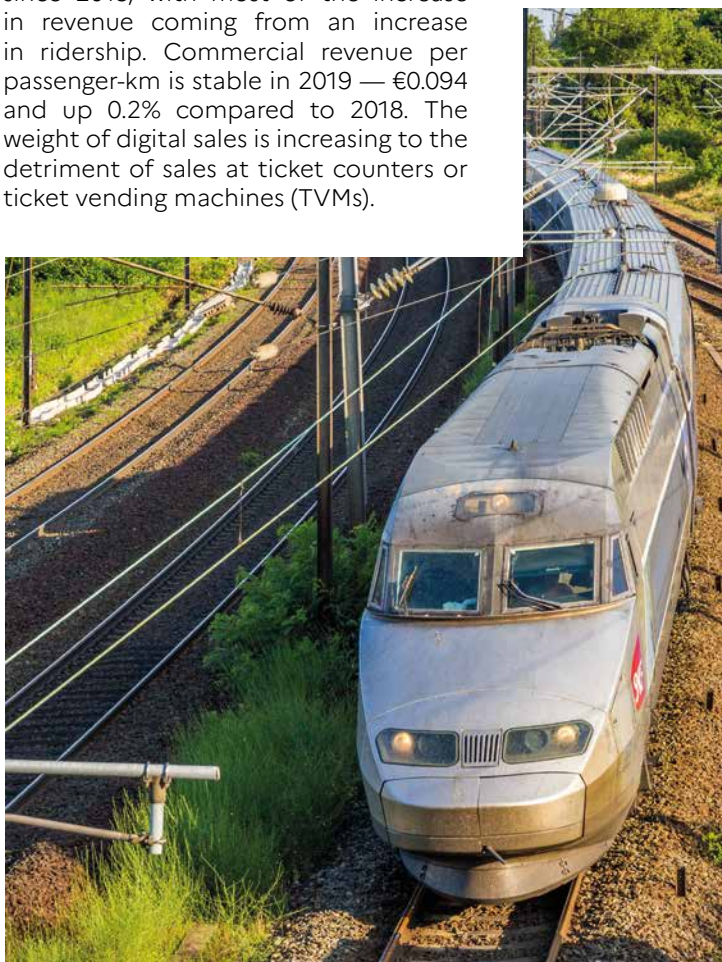
⁴ Data on TERs (Regional Express Trains) and Transiliens (Greater Paris Suburban Train Services), excluding tram-trains.

Rail passenger transport increased by 1.6% in terms of seats-km and remained stable in terms of trains-km. It stood at 383 million trains-km covered in 2019, below the 2017 high level. The growth in offer was driven by TER services, international commercial services and Transilien/RER services. Domestic high-speed-train services (TAGV) were down for the second year running, with a 2% drop. The number of passengers transported in 2019 was 1.88 billion for 99 billion passenger-km. All services combined, passenger numbers increased by 1.6% and passenger-km by 4.7%. This growth was particularly visible for TER services (10.6% in passenger-km) and for domestic high-speed compatible trains, which logged a 5.7% increase in passenger-km, while the number of trains-km was down.

The occupancy rate for all services increased significantly in 2019. It reached 46.7%, up 1.4 percentage point compared to 2018. The most noticeable increase concerned domestic high-speed compatible train services (up 3.2 points): inOui and Ouigo services reached occupancy rates of 71% and 78% respectively. The share of Ouigo services in the domestic high-speed compatible train offer has been rising steadily for three years, reaching 19% of the high-speed compatible train demand in 2019.

Of all the train stations served in 2019, only 13% host long-distance services (high-speed compatible trains or Intercity): indeed 87% of stations only host regional services (TER or Transilien). Of the stations hosting only one regional service (TER or Transilien), regional TER stations differ from Transilien stations in that the former have a low frequency rate compared to the latter — over 500 TER stations (25%) host fewer than 7 trains and 15 passengers per day.

In 2019, revenues of railway undertakings (commercial revenues and public funding) reached a record five-year high. Between 2018 and 2019, the increase was 7.1% for high-speed compatible train services, due to a rise in ridership and an average revenue per passenger-km (plus 1.2%) and per trains-km (plus 9.3%). Revenues of railway companies thus increased by 5.4% in 2019, reaching €14.3 billion, the highest level recorded since 2015. Public funding received by rail companies amounted to €5.53 billion in 2019, of which €3.34 billion for TER services (74% of total TER revenue) and €1.87 billion for Transilien services (67% of Transilien revenues). The weight of non-public services has increased by 3 points since 2015, with most of the increase in revenue coming from an increase in ridership. Commercial revenue per passenger-km is stable in 2019 — €0.094 and up 0.2% compared to 2018. The weight of digital sales is increasing to the detriment of sales at ticket counters or ticket vending machines (TVMs).



A slight decline in freight transport

2019 saw a slight decline in rail freight transport traffic — of 0.4% in trains-km and 0.8% in tonnes-km — but an increase of 1.1% in revenue.

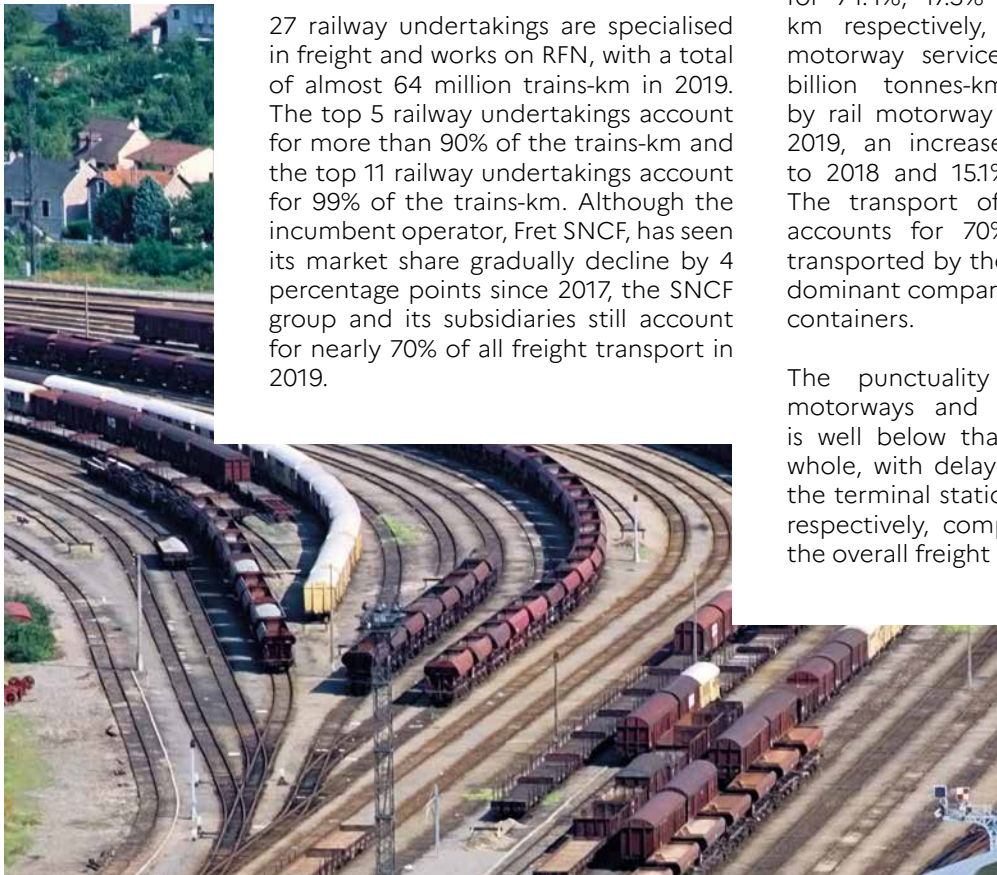
At 32.5 billion tonnes-km in 2019, its modal share fell by 0.3 percentage points between 2018 and 2019, despite an overall growth in freight transport of 2.6% over the same period. Road transport thus remains the chief mode used for freight transport activity in France in 2019, with a modal share of nearly 89%. “Conventional” goods traffic accounts for 78% of the tonnes-km transported, compared with 22% for combined transport.

27 railway undertakings are specialised in freight and works on RFN, with a total of almost 64 million trains-km in 2019. The top 5 railway undertakings account for more than 90% of the trains-km and the top 11 railway undertakings account for 99% of the trains-km. Although the incumbent operator, Fret SNCF, has seen its market share gradually decline by 4 percentage points since 2017, the SNCF group and its subsidiaries still account for nearly 70% of all freight transport in 2019.

In 2019, the direct revenues of railway companies from traffic amount to €1.1 billion. Although these revenues are slightly higher than in 2018 (plus 1.1%), revenues remain down by €73 million compared with 2017 — a year free of any social movement. This drop is consistent with the loss of turnover declared by the railway undertakings during the December 2019 and January 2020 strikes (estimated loss of €100 million).

Rail motorways have enjoyed continuous growth since 2017. In 2019, 10 active connections use three main routes: Bettembourg-Barcelona, Calais-Le Boulou and Calais-Orbassano, which account for 74.4%, 17.5% and 8.1% of tonnes-km respectively, transported by rail motorway services in 2019. Nearly 2 billion tonnes-km were transported by rail motorway services in France in 2019, an increase of 9.4% compared to 2018 and 15.1% compared to 2017. The transport of semi-trailers, which accounts for 70% of the tonnes-km transported by these services in 2019, is dominant compared to the transport of containers.

The punctuality of trains on rail motorways and of combined traffic is well below that of rail freight as a whole, with delay rates upon arrival at the terminal station of 52.7% and 46.1% respectively, compared with 33.6% for the overall freight traffic.



A major challenge: to promote the strengthening of a regulatory framework conducive to the opening up to competition

Ensuring that rail undertakings have efficient access to the rail network is a key issue for transport services.



Throughout 2020, the Authority's action on access to the rail network focused on non-tariff and on tariff issues, particularly the following:

- Technical and operational conditions of access to the rail network, in terms of (a) the capacity ordering process, (b) the operational management of rail traffic, and (c) works management processes.
- Continuing the work related to the pricing scheme for minimum services charged by public rail transport services, marked by a litigation context and by a decision of the Council of State issued in November 2020.

A major challenge: to promote the strengthening of a regulatory framework conducive to the opening up to competition

Reduce the technical barriers to entry and increase transparency, effectiveness, and efficiency of the railway system

For both passenger and freight transport, operational and technical conditions to access the rail network are a major challenge if the rail mode is to be maintained and developed in France over the long term. Efficient access to the rail network is a key success factor for the successful opening up of passenger rail services to competition.

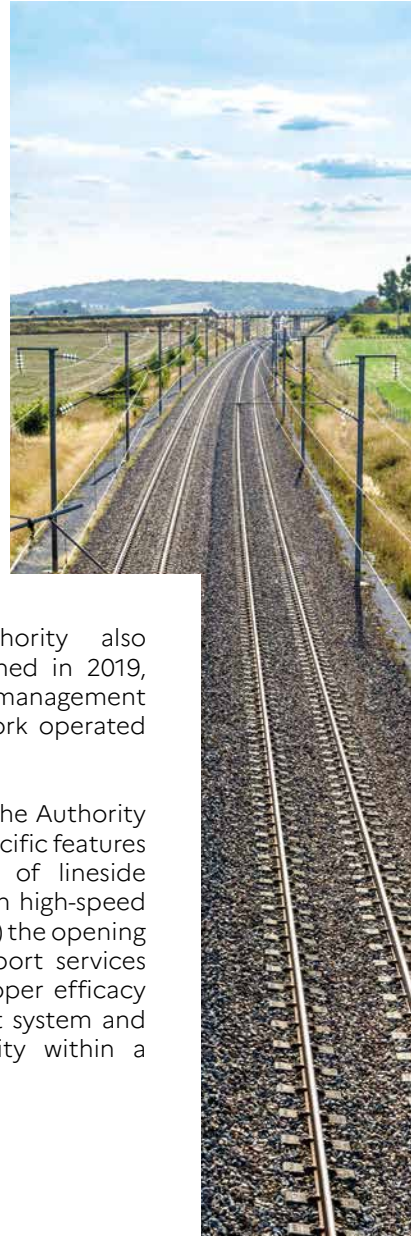
Attractiveness of the rail transport as a core mode central to mobility depends on the network's ability to offer efficient, flexible, and agile access. Therefore and particularly since 2018, the Authority has committed to an ongoing process of analysis and action aimed at improving transparency and at simplifying access to the rail network for all operators likely to access it.

During 2020, these actions have taken on various forms.

Thus, in its Opinion No. 2020-015 of 6 February 2020 on the non-tariff aspects of the French national rail network statement for the 2020 (amended) and 2021 working timetables, the Authority endeavoured to continue its work aimed at providing a transparent and instructive diagnosis of the various issues and problems relating to network access; and to formulating recommendations for performance improvement.

During 2020, the Authority also continued its study launched in 2019, analysing the operational management of traffic on the rail network operated by SNCF Réseau teams.

Lastly, at the end of 2020, the Authority launched a study on the specific features of control-command and of lineside signalling systems on French high-speed lines. This is a key issue for (a) the opening up of passenger rail transport services to competition, (b) the proper efficacy of the French rail transport system and (c) its good interoperability within a European rail network.



Promoting further the application of a relevant charging framework for the use of regulated infrastructure and service facilities

In 2019, significant progress was made in preparation for the 2020 timetable, on charging non-PSO rail passenger services for access to the infrastructure. Progress was consolidated further in 2020 when the Authority issued a favourable opinion on charges applicable to these services for the 2021 to 2023 working timetables (Opinion No. 2020-016 of 6 February 2020).

Nonetheless, following on from ART's Opinion No. 2019-005 of 7 February 2019 which rejected SNCF Réseau's proposal regarding rate increases paid by regional Public Transport Authorities (PTAs) for the 2020 working timetable, 2020 was marked by two unfavourable opinions rendered by the Authority on SNCF Réseau's proposals concerning rate increases applicable to public passenger rail transport services (TER and Transilien) for the 2021 to 2023 working timetables: the first (Opinion No. 2020-016 of 6 February 2020) followed the publication by SNCF Réseau on 2 December 2019 of the initial version of their 2021 Network Statement, and the second (Opinion No. 2020-049 of 30 July 2020) followed the publication on 5 June 2020 of a new version of SNCF Réseau 2021 Network Statement, which still included the same draft rate increase for the charging of public services.

Indeed, SNCF Réseau proposed indexing the infrastructure access charges applicable to public services on the basis of the trajectories provided for in the 2017-2026 multi-annual performance contract signed between the State

and SNCF Réseau at the end of 2016. In numerous previous publications, the Authority had underscored the lack of economic justification regarding these trajectories and SNCF Réseau has in fact relinquished the indexation of access charges applicable to non-public rail passenger services for these trajectories. In accordance with French law, the second rejection of SNCF Réseau's charging proposal has led the network operator to set the level of charges applicable to regional public services for the 2021 working timetable at the level of the tariffs used for the 2020 working timetable, indexed on the latest inflation forecasts.

These three successive opinions rejecting SNCF Réseau's charging proposals for public services have been challenged by SNCF Réseau before the Council of State. The first dispute, relating to Opinion No. 2019-005 of 7 February 2019, led to a decision by the Council of State on 27 November 2020, ordering the Authority to re-examine SNCF Réseau's charging proposal in light of the sustainability criteria for charging increases applicable to public rail services as defined in the decision. The two other disputes were withdrawn by SNCF Réseau, which the Council of State acknowledged in an Order dated 15 April 2021.



A major challenge: to promote the strengthening of a regulatory framework conducive to the opening up to competition

ZOOMING IN

on the Council of State's Decision of 27 November 2020 on SNCF Réseau's appeal against the Authority's Opinion No. 2019-005 of 7 February 2019

On 27 November 2020, the Council of State released its decision on the appeal lodged by SNCF Réseau against the Authority's Opinion No. 2019-005 of 7 February 2019 on the setting of infrastructure charges linked to the use of the national rail network for the 2020 working timetable. Although the Authority was ordered to re-examine SNCF Réseau's charging proposal, the high court's ruling established the Authority's position more firmly on several crucial points.

Background

In its Opinion No. 2019-005 of 7 February 2019 on the setting of infrastructure charges for the use of the national rail network for the 2020 working timetable, the Authority rejected SNCF Réseau's charging proposal (a) for the market charge paid by TER public services and (b) for the market charge and access charge paid by public services in the Île-de-France Region, which provided for a change in these charges of plus 2.4% when switching from the 2019 to 2020 working timetables. The Authority also issued a favourable Opinion for a maximum overall change in these charges of plus 1.8% when switching from one working timetable to the next. SNCF Réseau subsequently lodged an appeal against this Opinion.

Analysis of the conclusions of the Council of State's Decision No. 431748 of 27 November 2020

A careful reading of the Decision of 27 November 2020 supports the Authority's position on several points:



- The Authority may set a limit through its binding opinion (opinion of "up to") within the framework of applicable provisions.
- Regarding the assessment of the sustainability of charging increases applicable to public services, the Council of State considered that the Authority had been right not to consider itself bound by the multiannual contract signed between the State and SNCF Réseau. The Council of State then ruled out SNCF Réseau's claim that the increases should in all cases be considered sustainable solely on the basis of the principle of reimbursement provided for in public service contracts.

- On the sustainability criterion applied to charging increases for public rail transport services, the Council of State ruled that it was necessary to verify that the projected charging increases would not be such as to call into question the economic equilibrium of the public service contracts, for each regional market segment under consideration. In this context, the Council of State considered that the Authority, in its Opinion No. 2019-005 of 7 February 2019, had erred in law by not verifying whether the development was likely to call into question the economic equilibrium of the public service contracts and, more specifically, would lead the Public Transport Authorities (PTAs), who compensate the railway undertakings for the amounts charged, to take *«measures likely to significantly affect the use of the infrastructure on this segment»*. However, the criteria for the sustainability of charge increases applicable to public rail transport services as defined by the Council of State, were consistent with the more in-depth analysis done of the economic assessment of sustainability on downstream market, of charging increases applicable to public rail transport services; an analysis that the Authority carried out in its two Opinions on the setting of infrastructure charges ancillary to the use of the national rail network for the 2021 to 2023 working timetables, in particular in its Opinion No. 2020-049 of 30 July 2020.

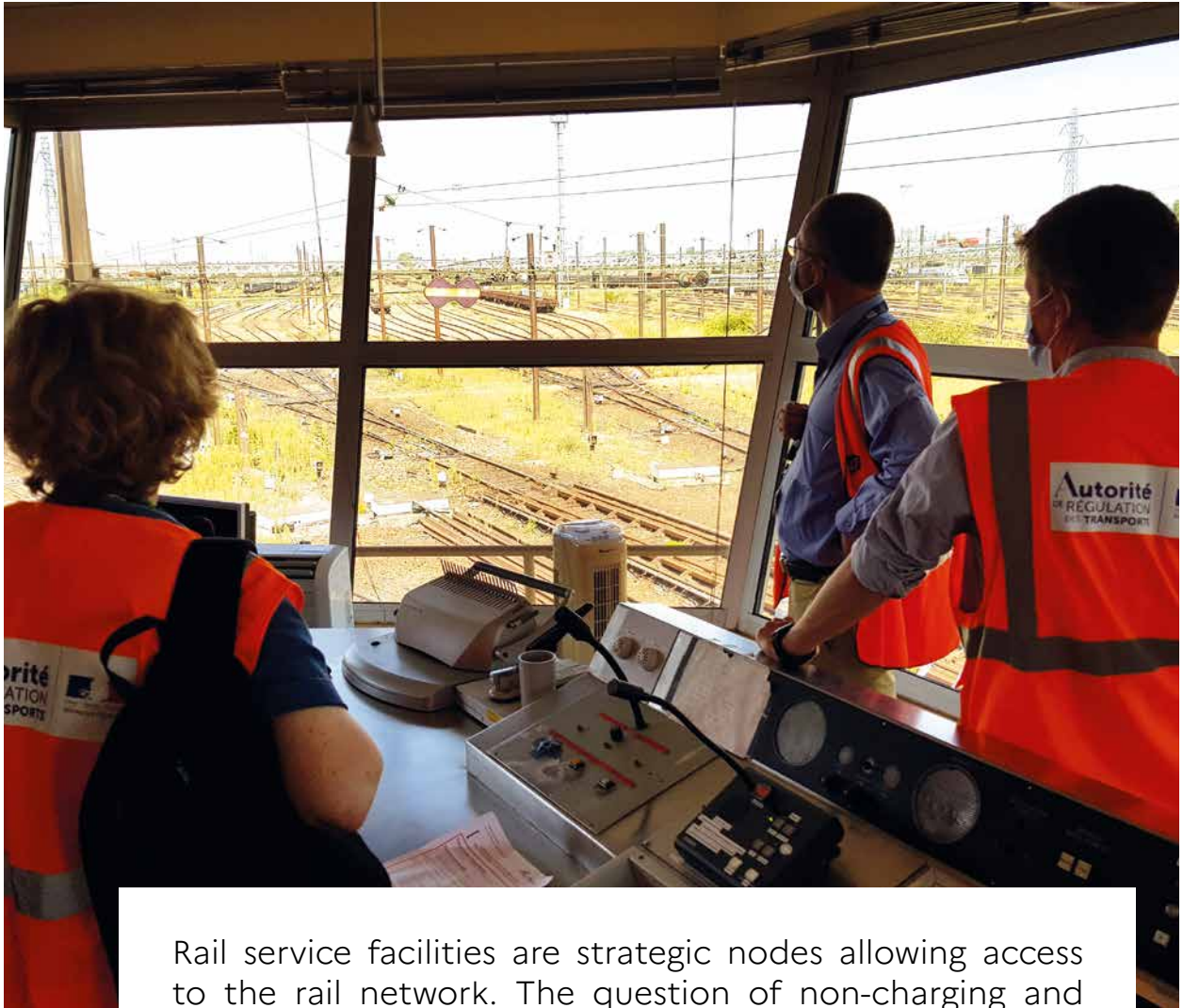


Re-examination of SNCF Réseau's charging scheme proposal regarding the 2020 working timetable

In accordance with the Decision of 27 November 2020, in its Opinion No. 2021-004 of 28 January 2021, the Authority re-examined SNCF Réseau's charging scheme proposals relating to the market fee paid by TER public rail transport services and the market charge and access charge paid by public rail transport services in Île-de-France. Taking up its analysis in compliance with the criteria for the sustainability of charging increases applicable to public rail transport services defined by the Council of State, the Authority confirmed, for the fees in question, its favourable Opinion for a maximum overall increase of plus 1.8% when switching from the 2019 service schedule to the 2020 service schedule.

A major challenge: to promote the strengthening of a regulatory framework conducive to the opening up to competition

Service facilities as strategic nodes for the performance of the railway system



Rail service facilities are strategic nodes allowing access to the rail network. The question of non-charging and charging conditions for access to these facilities, appears to be a major issue for the provision of efficient rail transport services and the launching phase to open up to competition.

Railway service facilities are characterised by a diversity in sites, and uses associated with these sites: passenger stations, service tracks for the marshalling of freight trains, the formation of passenger and freight trains or the stabling of rolling stock between two commercial services, freight terminals (freight yards and combined rail-road transport terminals), maintenance facilities for railway rolling stock, fuel supply stations for locomotives and self-propelled thermal engines, etc.

Regarding rail passenger station access charges payable by railway undertakings and authorised applicants, the Authority had issued on 28 February 2020 a favourable Opinion on the charges proposed by SNCF Gares & Connexions, the newly established public limited company and wholly owned subsidiary of SNCF Réseau (Opinion No. 2020-020). This was the first Opinion on a proposal by the new rail station manager in a context of reunification of train station assets (buildings and platforms). While the Authority had validated the 2020 charges proposed by SNCF Gares & Connexions, it had also issued several recommendations concerning the expected future developments in the economic model for regulated charges for access to passenger stations and their ancillary services. These recommendations have been supplemented by a public contribution, published by the Authority on its website on 16 June 2020.

Regarding the access charges to railway rolling stock maintenance facilities and services provided therein for the 2020 and 2021 working timetables, the

Authority made several recommendations in 2019 and specified its expectations as to improvements to be introduced in the drawing up of these charges before it can issue a favourable opinion. In 2020, SNCF Voyageurs and Fret SNCF have continued the works underway since 2019 along the same lines, which has finally enabled the Authority, after an initial rejection in its Opinion No. 2020-011 of 30 January 2020, to approve, in its Opinion No. 2020-077 of 26 November 2020, the charges in the Reference Portfolio for light and heavy maintenance services that SNCF Voyageurs and Fret SNCF offer for their 2020 and 2021 working timetables.

As regards the other service facilities — service tracks, freight terminals and fuel-oil supply stations, and under the 2020 working timetable, the Authority has issued favourable opinions on the charges proposed by the various service facility managers (SNCF Réseau for the first two and SNCF Voyageurs for the last one).

Finally, having identified this issue as ranking high in the context of the opening up to competition of non-public and public passenger rail transport services, the Authority launched a study in 2020, on the operational and technical conditions of access to and use of service tracks for the marshalling and stabling of rolling stock. This study should contribute to reducing technical barriers to entry and should increase transparency, effectiveness, and efficiency of the railway system.

A major challenge: to promote the strengthening of a regulatory framework conducive to the opening up to competition

ZOOMING IN

on a strategic issue: access to SNCF Voyageurs and Fret SNCF rolling stock maintenance centres

Maintenance centres for railway rolling stock play a central role in the production process to offer railway services. These facilities are not easily duplicable, due to sometimes restricted access to land at strategic points of the national rail network or to financial and technical barriers that do not allow a railway undertaking or an authorised applicant to invest in such facilities. Thus, actual access by railway undertakings to rolling stock maintenance facilities and the services provided therein is a strategic issue for the Authority, with a view to reducing the barriers to entry into the rail transport market.



Significant progress was made throughout 2020 to allow fairer access to the incumbent operator's maintenance facilities. In line with the work undertaken since 2015, the Authority has stepped up its action to improve the Maintenance Reference Portfolios offered by SNCF Voyageurs and Fret SNCF, so that they comply with European and national regulations and meet the needs of railway companies.

Thus, in its Opinion No. 2020-011 of 30 January 2020, the Authority has rejected the SNCF Voyageurs and Fret SNCF's Maintenance Reference Portfolios submitted to it in November 2019. The Authority has identified a number of shortcomings and lacks, in particular failure to demonstrate that the proposed prices result in SNCF Voyageurs and Fret SNCF receiving revenue that is lower than their costs plus a reasonable profit. In line with this Opinion, on 28 May 2020, the Authority has opened infringement proceedings against SNCF Voyageurs (Decision No. 2020-033) and Fret SNCF (Decision No. 2020-034), in respect of the 2020 working timetable, for failure to comply with obligations regarding access to the maintenance centres' service facilities and the services provided therein. The Authority has given SNCF Voyageurs and Fret SNCF formal notice to comply with the regulations in force within two months.

On 24 July 2020, SNCF Voyageurs and Fret SNCF submitted new draft Maintenance Reference Portfolios to the Authority for the 2020 and 2021 working timetables. These offers were the subject of a corrective referral on 16 October 2020. Subsequent to its appraisal, the Authority noted significant progress, in particular in the definition of a detailed and well-reasoned Portfolio of light maintenance operations, the introduction of local tariffs reflecting local conditions more accurately (age and complexity of maintenance centres, possible subsidies, and costs) and the introduction of a service limited to access into industrial technical centres. SNCF Voyageurs has also set up a computer mapping tool intended for railway undertakings of the area to enable them to search for and view the various maintenance sites more easily. As a result, the Authority has been able to issue a favourable Opinion (Opinion No. 2020-077 of 26 November 2020) with requests for improvements for future working timetables.

During the course of 2021, the Authority is to undertake a number of projects aimed at:

- increased transparency of the incumbent operator's maintenance activities in order to make them more accessible to third party operators;
- the development of a relevant access offer for the stabling of trains;
- improved accessibility to all technical centres through (a) the proper enforcement of Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and associated services for rail transport; and (b) the development of tools useful for railway undertakings;
- contributing to the development of the regulatory framework in conjunction with the French Directorate-General for Infrastructure, Transport and the Sea (DGITM), to improve the relevance of the offer by the incumbent operator at its maintenance centres.



A major challenge: to promote the strengthening of a regulatory framework conducive to the opening up to competition

ZOOMING IN

on accounting separation, an essential tool for regulation

Separation of accounts is an essential regulatory tool for the Authority, particularly at a time when the rail passenger transport sector is being opened up to competition.

To avoid discrimination risks⁵ or distortions of competition, including cross-subsidisation⁶, the French Transport Code requires a separation of accounts between the activities of vertically integrated rail operators (management of service facilities and operation of transport services) and between the various activities related to the provision of rail transport services (rail freight transport, public and non-public rail passenger transport activities). The Transport Code provides that, once the Competition Authority has rendered its own opinion, ART shall approve the rules for the separation of accounts established by these operators.

To avoid the previously listed risks, the separation of accounts must allow to obtain a detailed knowledge of the assets, liabilities, revenues, and expenses of each separate activity. It must present the various activities' accounts and the relationships between these activities as if each activity were carried out independently from the others.

Thus, a separation of accounts appears essential in the context of opening up the passenger rail transport sector to competition. Indeed, competition can only be successful if new entrant railway undertakings can access service facilities under fair and non-discriminatory conditions, in particular access to maintenance centres. Successful opening up to competition also depends on the possibility for the French political entities known as "Regions", acting as Public Transport Authorities — PTAs, to be in possession of the data required to organise advertising and tendering procedures and to establish objective public procurement awarding criteria they can use to compare alternative bids.

Work undertaken in the past by the Authority has led to real progress in the production by SNCF Mobilités — now SNCF Voyageurs, of separated accounts.

Until 31 December 2019, SNCF Mobilités, the dominant incumbent operator, carried out (a) passenger transport operations, including public transport activities such as TERs and TETs (trains d'équilibre territorial, i.e., intercity network trains); (b) freight transport; and (c) management of service facilities (passenger train stations, maintenance centres, fuel stations). The obligation to produce separate accounts for each of these different activities therefore appeared of the essence.

Following Decision No. 2017-101 of 27 September 2017, in which the Authority had specified its requirements in terms of separation of accounts, SNCF Mobilités had taken its case to the Authority, presenting it with the company's rules for the separation of accounts. These rules were then approved on 31 January 2019, once the Competition Authority had rendered its own Opinion on 23 January 2019.

At the end of June 2019, SNCF Mobilités had sent the Authority separate accounts for the 2018 financial year. However, these separate accounts had not been sent with a certificate of compliance drawn up by an external auditor, as provided for in the Authority's Decision n°2017-101 of 27 September 2017. Following a formal notice from the Authority, SNCF Mobilités carried out in-depth work to address, as comprehensively as possible, the reasons that had prevented the delivery of such a certificate within the prescribed timeframe. At the end of December 2019, it sent the Authority new separate accounts for the 2018 financial year, with its matching certificate of compliance, which enabled the Authority to close the infringement procedure.

⁵ Discrimination, for an infrastructure manager or a service facility operator, consists in applying differing charges to operators wishing to access their infrastructure, without these charging variations being justified by any objective difference in situations. In the case of a service facility operator who is also a rail carrier, a discriminatory practice could also be applying abnormally high tariffs both internally and externally. Internally, this tariff would not be harmful, whereas for external carriers, this could constitute a barrier to entry.

⁶ Distortion of competition covers all practices liable to disrupt competition in a given market. Cross-subsidisation, which is a form of distortion of competition, implies that a company, active on several markets, transfers financial flows from one market to another in order to sell goods or services at a price lower than the production cost on the competitive market and, at the same time, the company compensates for the losses incurred, through the rent generated by its monopolistic activity.

Although the transmission of these new separate accounts for 2018 and the guarantee provided by the certificate issued by an independent third party constituted a new step forward for the Authority, the latter had nonetheless noted that the auditors had reported nonconformities in their certificate, in particular regarding in-house re-invoicing of regulated services carried out in the maintenance centres.

In 2020, SNCF Mobilités' separate accounts for the 2019 financial year had been sent to the Authority on time along with a certificate of compliance issued by an external auditor. However, this certificate showed that in-house invoicing for maintenance still did not comply with the SNCF Mobilités rules for the separation of accounts, approved by the Authority. Furthermore, despite the work undertaken by SNCF Mobilités over the past years to review all in-house re-invoicing and improve the work units employed, due to the complexity of internal flows between the various activities within SNCF Mobilités and the unsuitability of both the information technology and the reporting systems, to the needs of accounting separation, some internal services were re-invoiced on the basis of work units. Although this was done in a homogeneous way for all activities, it nevertheless did not always seem the most relevant approach to reflect the economic reality of these services and thus prevent the risk of a discrimination between activities.

In view of this background, the Authority has requested that, for the coming financial years and starting with 2020, internal re-invoicing related to maintenance be treated so as to comply with the rules on the separation of accounts. The Authority also requested that the work undertaken be continued, regarding other internal billings and the work units employed, to ensure that there is no discrimination between the various activities that are separate for accounting purposes. These requests will apply to entities created on 1 January 2020 to replace SNCF Mobilités, namely SNCF Voyageurs and Fret SNCF.

Neither this work, nor these demands are called into question by the restructuring of the SNCF entity on 1 January 2020 .

Act No. 2018-515 of 27 June 2018 for a new Railway Pact has led to changes within the SNCF group. Although the EPIC SNCF Mobilités entity was phased out on 1st January 2020, on that very day SA SNCF Voyageurs, SAS Fret SNCF and SA SNCF Gares & Connexions were established. This new organisation has made it possible to legally separate passenger rail transport activities from freight rail transport activities, as well as passenger station management activities from rail transport activities.

Within the framework of this new structure, SNCF Voyageurs and Fret SNCF remain vertically integrated, dominant, and multi-activity operators. SNCF Voyageurs is a company present on both the public and the non-public passenger rail transport markets and on the maintenance centre and fuel station markets. Fret SNCF is a company present both on the rail freight transport market and on the maintenance centre market. As such, these operators must from now on, produce separate accounts, drawn up in accordance with rules previously approved by the Authority.

In this context, the two new companies have produced their own set of rules for the separation of their accounts, drawing heavily from the SNCF Mobilités rules approved by the Authority. The SNCF Voyageurs and Fret SNCF rules were submitted to the Authority in January 2021. These will be screened by the Authority with a view to their approval, once the opinion of the Competition Authority (ADLC) is rendered, in accordance with Article L. 2133-4 of the Transport Code.

When it receives the two entities' separate accounts for 2020 financial year, the Authority will be particularly attentive in following up on the requests made concerning in-house re-invoicing for heavy and light maintenance services, just as it was following its analysis of SNCF Mobilités' separate accounts for the 2019 financial year.

Four issues instrumental in supporting the opening up to competition

Issue No. 1: Determining the number of employees to be transferred in the event of a change in contractors



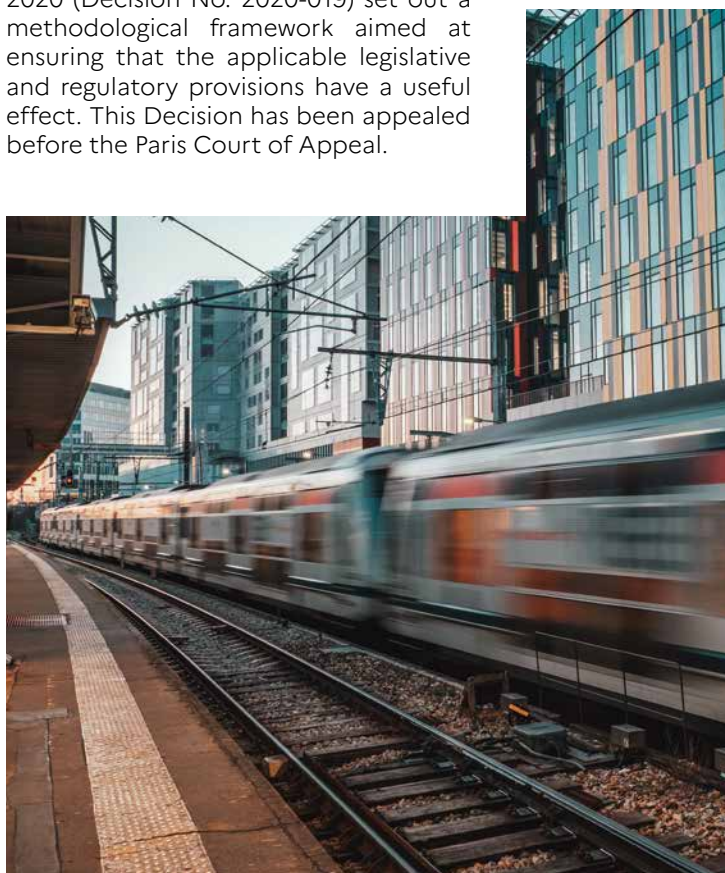
Act No. 2018-515 of 27 June 2018 for a new Railway Pact stipulates that from 25 December 2023, public service contracts for passenger rail transport will be awarded after advertising and competitive tendering, subject to the possibilities of direct awarding provided for by law. By way of derogation, however, the Act gave the Regions, the option of awarding these contracts from 3 December 2019 onward, after advertising and competitive tendering. Article L. 2121-22 of the Transport Code provides that, during these competitive tendering procedures, *«the number of employees whose employment contract continues with the new employer shall be determined by mutual agreement between the transferor and the organising authority»*. The Transport Regulatory Authority is competent to settle disputes in the event of a disagreement between parties.

The question of setting the number of employees to be transferred in the event of a change in the contractor of a public service contract for passenger rail transport is an issue instrumental to the success of public services opening up to competition. Indeed, any under- or overestimation on the part of the outgoing operator poses a twofold risk to new entrants: first, not having sufficient resources to operate the service and second, incurring staff costs that would be excessive in relation to the results likely to be expected from operating the service. These two situations are likely to deter new operators from entering the market.

The Provence-Alpes-Côte d'Azur Region submitted a request to the Authority in November 2019, in the context of the opening up to competition of two lots of the public service passenger rail transport agreement linking the Region to SNCF Voyageurs; it concerned the settlement of a dispute relating to setting the number of employees to be transferred in the event of a change in contractor for each of these lots.

This dispute raised an unprecedented methodological issue specific to the rail sector, relating to the methods of separating the workforce within a regional perimeter from the lines (a) to which they are not exclusively assigned and (b) on which they work for highly variable timespans. Although a methodology had been specified by Decree No. 2018-1242 of 26 December 2018, for determining the number of jobs to be transferred per job category (drivers, maintenance staff, sales counter

staff, support staff, etc.), the investigation established that the Decree's provisions lacked precision or consistency. In any case, SNCF Voyageurs did not apply this method to set its figures and moreover, did not provide the Authority, during the investigation, with the information enabling it to apply the methodology, raising a genuine practical difficulty for the Authority. While the Authority was obliged to exercise its powers and determine the number of employees to be transferred for each job category, it did not have the option of carrying out its own auditing work within the required timeframe, particularly by carrying out on-site counts of staff time spent for each lot. In this context and in view of the stakes attached to the staff transfer issue, the Decision issued on 28 February 2020 (Decision No. 2020-019) set out a methodological framework aimed at ensuring that the applicable legislative and regulatory provisions have a useful effect. This Decision has been appealed before the Paris Court of Appeal.





Four issues instrumental in supporting the opening up to competition

Issue No. 2: Transmission of information on the organisation of public transport services

The Act for a new Railway Pact also extended the Authority's dispute settlement powers to disputes regarding transmission of information to PTAs on the organisation or execution of services and missions covered by a public service contract. This transmission of information is provided for in Article L. 2121-19 of the Transport Code and in Decree No. 2019-851 on information relating to public passenger rail transport services, relating to the elements needed for the operation of transferred rolling stock, and to the protection of information covered by trade secrets.

On 30 July 2020, the Authority settled, for the first time, a dispute between a PTA (the Hauts-de-France Region) and SNCF Voyageurs concerning the enforcement of these provisions. After a lengthy investigation, the Authority ordered SNCF Voyageurs to provide a sizeable amount of information within one month, including:

- the general organisation of the service
- the justification for compensations paid by the Region for the public service obligation
- the rolling stock used to provide the service, and for its maintenance
- the transport services
- traffic and ticket distribution methods
- human resources.

The Authority's Decision No. 2020-044 contributes greatly towards guaranteeing the effectiveness of opening up agreed services to competition: indeed, in order to put public service contracts out to tender effectively, PTAs must be able to characterise the service precisely and list the criteria for awarding contracts.

On 27 August 2020, SNCF Voyageurs lodged an appeal against this decision before the Paris Court of Appeal, requesting annulment and reversal.

On 31 August 2020, SNCF Voyageurs also filed an application for interim measures to postpone execution. On 18 November 2020, the First President of the Paris Court of Appeal dismissed all of SNCF Voyageurs' requests for partial or total stay of execution of the contested decision, ruling that it did not entail irreparable or patently excessive consequences for SNCF Voyageurs.

Following a complaint filed with the Authority by the Hauts-de-France Region against SNCF Voyageurs for non-execution of Decision No. 2020-044 of 30 July 2020, infringement proceedings were opened against SNCF Voyageurs on 16 April 2021 based on Article 30 of the Authority's internal rules.

Issue No. 3: SNCF Réseau's Code of Conduct is an initial guarantee indicating compliance for the infrastructure manager's independence. It will evolve to take account of lessons learned from its implementation

The independence of an infrastructure manager belonging to a vertically integrated company, independence in legal, decision-making and organisational terms, is an essential prerequisite enabling railway undertakings to exercise their right of access to the network under fair, transparent and non-discriminatory conditions, especially in the context of the opening up of rail services to competition.



This is why the Authority confers paramount importance to the commitments made by SNCF Réseau in the Code of Conduct it is required to adopt pursuant to Article L. 2122-4-1-1, II, paragraph 4 of the Transport Code, bringing together *«all the measures taken to prevent any decisive influence of another entity of the vertically integrated company on the decisions that [it] takes with regard to the core functions [i.e. capacity allocation and charging]»*. This Code of Conduct is to be addressed to the Authority in charge of «monitoring» compliance with this statement.

Hence, pursuant to an opinion issued following deliberation of its Board, the Authority has wished to state its observations and recommendations on the Code of Conduct adopted by the SNCF Réseau Board of Directors on 25 June 2020 and sent to the Authority. The Code includes (a) general measures pertaining to independence from the parent company in the exercise of core functions; independence of the members of the Board of Directors, of the persons responsible for making decisions about core functions, and of the managers; independence of the offices, the impervious nature of the IT systems managing core functions; and the collective responsibility of work done on complex subjects; as well as (b) specific measures applicable to the core functions.



Four issues instrumental in supporting the opening up to competition

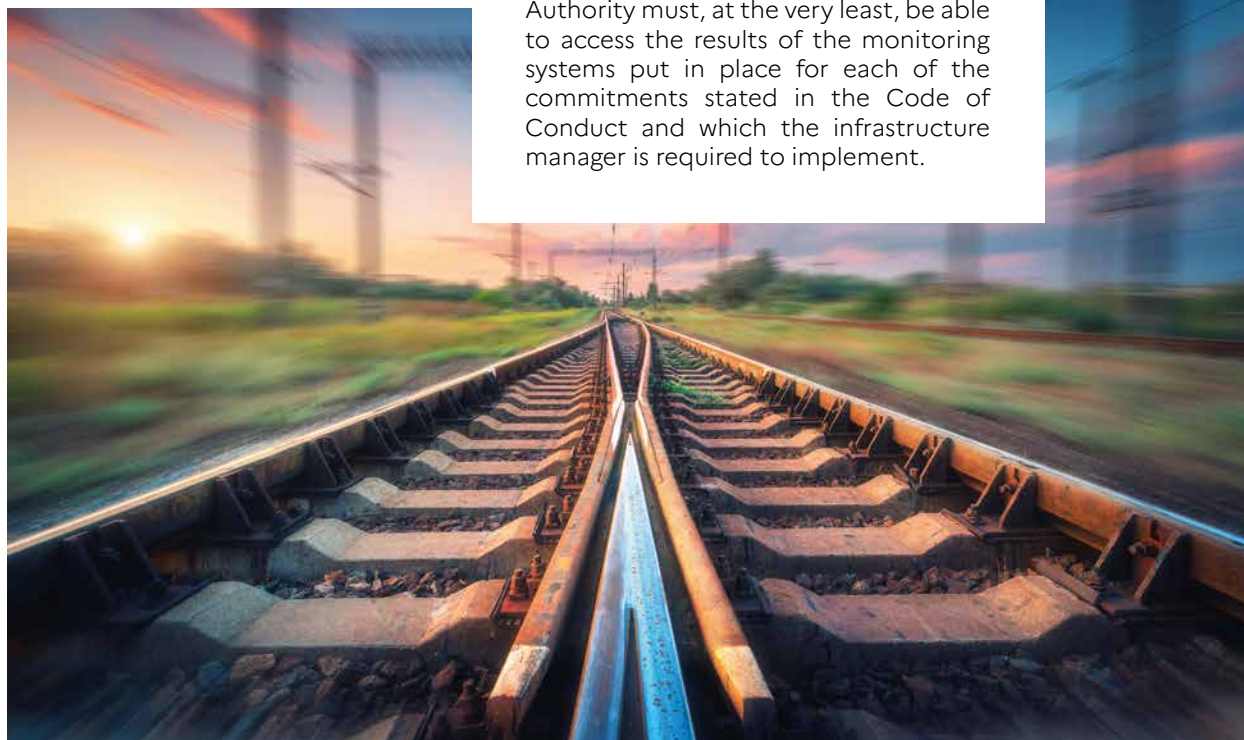
In its Opinion No. 2020-043 of 16 July 2020, the Authority was able to note that the Code of Conduct did not give practical expression to SNCF Réseau's commitments, in its organisation and its internal operation, thereby limiting their scope. Moreover, certain topics were neither mentioned nor dealt with.

Practically, the Authority noted that:

- the commitment on the independence of offices did not prohibit staff in charge of core functions from sharing their premises with SNCF Voyageurs staff;
- the commitment on the impervious nature of IT systems dedicated to core functions did not extend to SNCF group; and
- no commitment is made regarding the training of staff in charge of core functions or the management of services pooled within SNCF group.

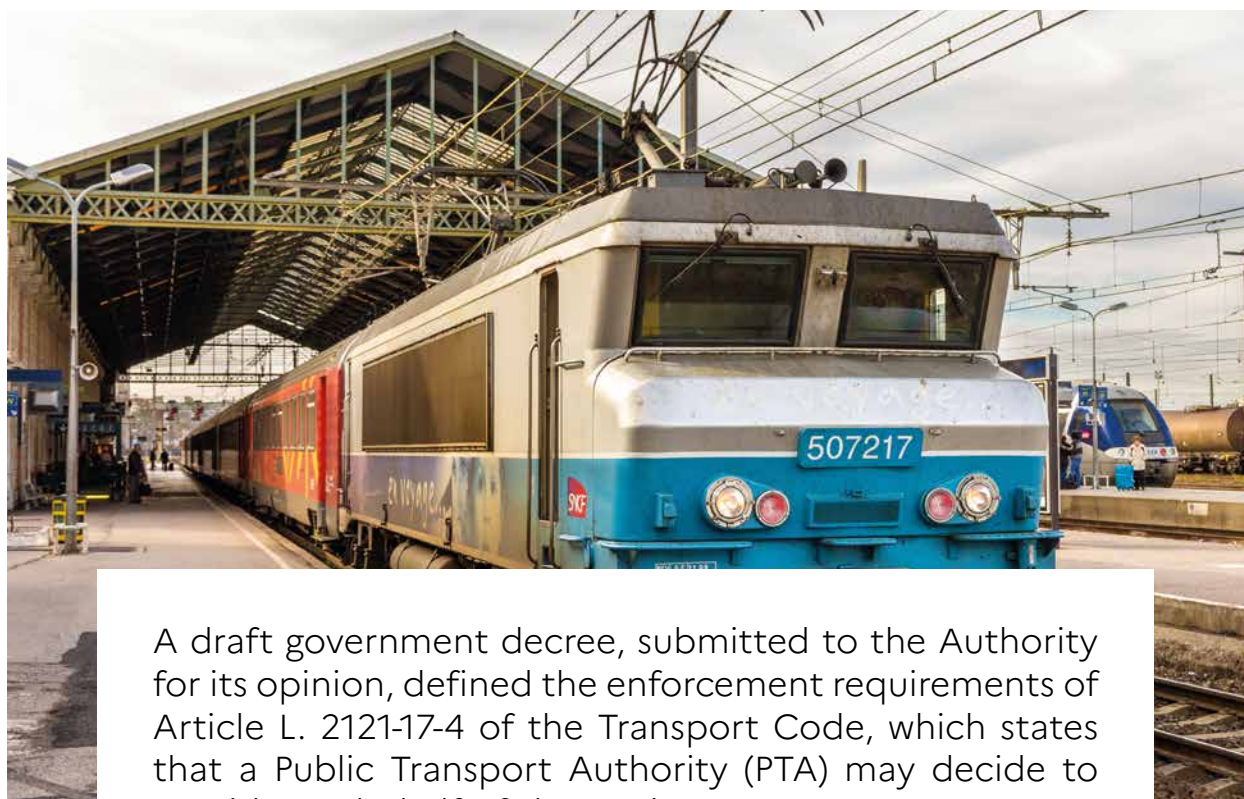
Also, regarding monitoring the Code of Conduct's proper implementation, the Authority recommended that the warning system set up by SNCF Réseau be supplemented by the appointment of a «designated person» tasked specifically with ensuring compliance with the commitments made under the Code of Ethics' framework, following the example of the 'compliance officer' that the French legislator introduced in electricity and natural gas utility companies.

On the whole, the Authority considers this first version of the Code of Conduct as bound to evolve to take account of lessons learnt by SNCF Réseau during its implementation. In this respect, the Authority reserves the right, as part of its monitoring mission, to report on its findings and recommendations, thus offering new entrants the greatest possible visibility on the infrastructure manager's methods and on the terms of access to the network. To do this, the Authority must, at the very least, be able to access the results of the monitoring systems put in place for each of the commitments stated in the Code of Conduct and which the infrastructure manager is required to implement.



Issue No. 4: Transferring the management of railway lines and passenger rail stations to the Regions to maintain consistency in the management of railway infrastructure and passenger stations

How can the emergence of a single manager for stations be reconciled with the possibility for the Regions to take over the management of specific stations?



A draft government decree, submitted to the Authority for its opinion, defined the enforcement requirements of Article L. 2121-17-4 of the Transport Code, which states that a Public Transport Authority (PTA) may decide to provide, on behalf of the station manager, management services for given rail passenger stations used mainly by public passenger rail transport services, by entrusting those services to an operator under a public passenger rail transport service contract, or by providing those services as PTA.

Four issues instrumental in supporting the opening up to competition

In its Opinion No. 2020-064 issued on 8 October 2020, the Authority noted that the draft decree did not guarantee SNCF Gares & Connexions any control over stations and services covered by the arrangements, since the scope of eligible stations was too broad.

The Authority pointed out that only by limiting the scope of the system to stations considered to be almost exclusively and permanently single carrier would it be possible to include services which, in a market with several operators, would offer a competitive feature (passenger reception and orientation).

In addition, the Authority noted that the draft decree set up complex arrangements involving a multiplicity of players and did not guarantee SNCF Gares & Connexions the possibility of exercising its role as unified manager of passenger stations.

Finally, the Authority noted that the draft decree did not offer SNCF Gares & Connexions the means to control and monitor costs. The Authority underscored the risk of an increase of costs and a price discrimination because of the multiplication of intermediaries and the absence of leverage in driving costs.



It should be noted that in its April 2021 thematic public report on passenger rail stations, the French Court of Audit indicated, with regard to the scope of stations likely to be transferred to the Regions, that «ART's position seems the most balanced. Indeed, the greater complexity of managing stations where several carriers are present (particularly passenger information and operational management) calls for expert knowledge held only by Gares et Connexions. Therefore, it is desirable that the option of transferring management be restricted to stations that are permanently «single-carrier». The Regions would therefore be fully entitled to claim the operation of facilities for themselves, facilities they are the only ones using».⁷

⁷ <https://www.ccomptes.fr/sites/default/files/2021-04/20210420-rapport-gares-ferroviaires-voyageurs.pdf>, p35

The issue of transferring the management of low-traffic railway lines of local or regional significance; and the issue of infrastructure management tasks

On 8 October 2020, the Authority received a draft decree from the French Government, pursuant to Article 172 of the Mobility Act No. 2019-1428 of 24 December 2019, specifying the terms and conditions for the implementation of the two new schemes available to local or regional low-traffic railway lines for the transfer of (a) management and (b) infrastructure management tasks (including service facilities) to regional PTAs that request it or to the entities they designate.

In its Opinion No. 2020-069 of 22 October 2020, the Authority made a number of recommendations aimed at

- clarifying the scope of transferrable lines and transferrable service facilities: from the Authority's point of view, the «low-traffic» criterion, which is the determining factor in defining lines eligible for transfer, is not defined in a sufficiently relevant manner and the type of service facilities concerned is not sufficiently precise.
- defining more accurately the obligations incumbent on PTAs benefiting from management transfers or the entities designated by them, so as to give a clear view of the responsibilities attached to the status of infrastructure manager or operator of service facilities, particularly rail stations.
- clarifying the provisions relating to financial compensation calculations to facilitate their implementation. In particular, the Authority recommended simplifying the compensation system and, specifically, setting up a simplified normative system for assessing revenues and costs.

Decree No. 2020-1820 of 29 December 2020 on the transfer of the management of low-traffic railway lines of local or regional significance, and on the transfer of infrastructure management tasks on these lines, was published in the French Official Journal on 31 December 2020. Although the published text takes account of the Authority's observation on the scope of transferable lines by replacing the «low-traffic» criterion with a reference to three categories of lines, eligible for both types of transfers benefiting the PTAs as provided for in the Decree, the Authority can only regret that the French regulatory powers did not heed more the warnings and recommendations formulated by ART, in accordance with its mission to contribute to the proper running of the French rail transport system in its technical, economic and financial aspects.

Enhanced cooperation with EPSF to guarantee a safe rail service

The French Transport Regulatory Authority and the French Railway Safety Authority (Établissement public de sécurité ferroviaire — EPSF) have signed a cooperation agreement as a further step in their collaboration.



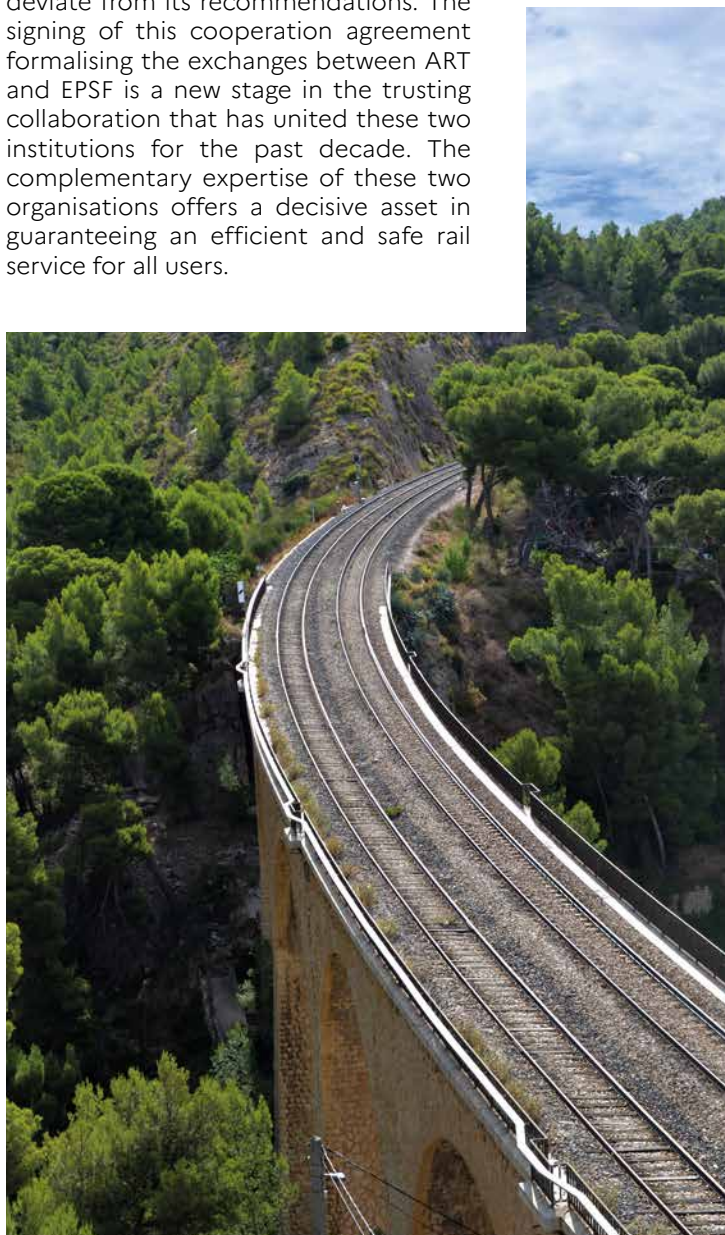
Bernard Roman, President of ART and Pierre Pimpie, Interim Managing Director of EPSF

This document formalises the framework for exchanges between the two bodies, thus facilitating cooperation whilst guaranteeing the independence and confidentiality rules specific to each institution.

Cooperation between ART and EPSF is an answer to the wishes of European and French legislators. Article 56 (3) of Directive 2012/34/EU, as amended, establishes the principle of close cooperation between the regulatory body, in this case ART, and the national railway safety authority, EPSF. Although, in practice, this cooperation has been operational since the start of the regulator's activity, the cooperation agreement signed on 30 June 2020 formally defines the framework for exchanges between the two institutions, thus formalising good practices that have been shared until now.

This cooperation between ART and EPSF is one of the features making it possible to envision a successful opening up of the domestic rail transport market to competition under fair and non-discriminatory conditions, consequently meeting the objective, underpinned by the European transport policy, of having a single European railway area, within which railway undertakings can journey unhindered, on a safe and interoperable railway network. Accordingly, amended Directive 2012/34/EU provides that the two institutions « shall ensure that these authorities jointly develop a framework for information-sharing and cooperation aimed at preventing adverse effects on competition or safety in the railway market ». While acknowledging their independence, their competences and the confidentiality inherent to their activities, ART and EPSF make recommendations to each other on features that could harm rail competition or compromise safety.

Any item of information exchanged relates to information relevant to the performance of ART's and EPSF's missions. If one of the parties addresses a recommendation to the other, the latter must study it without any exception, before any decision is taken, and inform the former of the reasons that have led the institution, where applicable, to deviate from its recommendations. The signing of this cooperation agreement formalising the exchanges between ART and EPSF is a new stage in the trusting collaboration that has united these two institutions for the past decade. The complementary expertise of these two organisations offers a decisive asset in guaranteeing an efficient and safe rail service for all users.



The control
and regulation
of motorway
concessions





The control and regulation of motorway concessions

In 2020, the Authority published its first report on the economics of motorway concessions.

In a context marked by a peak in referrals relating to motorway service areas and two opinions on concession contracts amendments, the Authority published its first report on the economics of motorway concessions. The report's two main objectives were to enlighten public decision-makers and to inform about the profitability of concessions.

Facts
& figures
on the
2019
market



9,119

kilometres of motorways
under concession within
the Authority's scope

18

motorway
concession
companies

19

concession
contracts

3

major groups

357

service areas with fuel
distribution
and 637 rest areas

A traffic of
96.9 bn
vehicles-km

(+ 2.1% compared to 2018) shared between
82.3 billion light vehicles and 14.6 billion
heavy goods vehicles

€10.6 bn
of turnover
(+ 3.6% compared to 2018)

97.4%
from tolls

74.1%
EBITDA margin
(+ 1.4 percentage points
compared to 2018)

€28.1 bn
in net debt
(- 2.6% compared to 2018)



€3.1 bn
in paid dividends
(+ 6.9% compared to 2018)

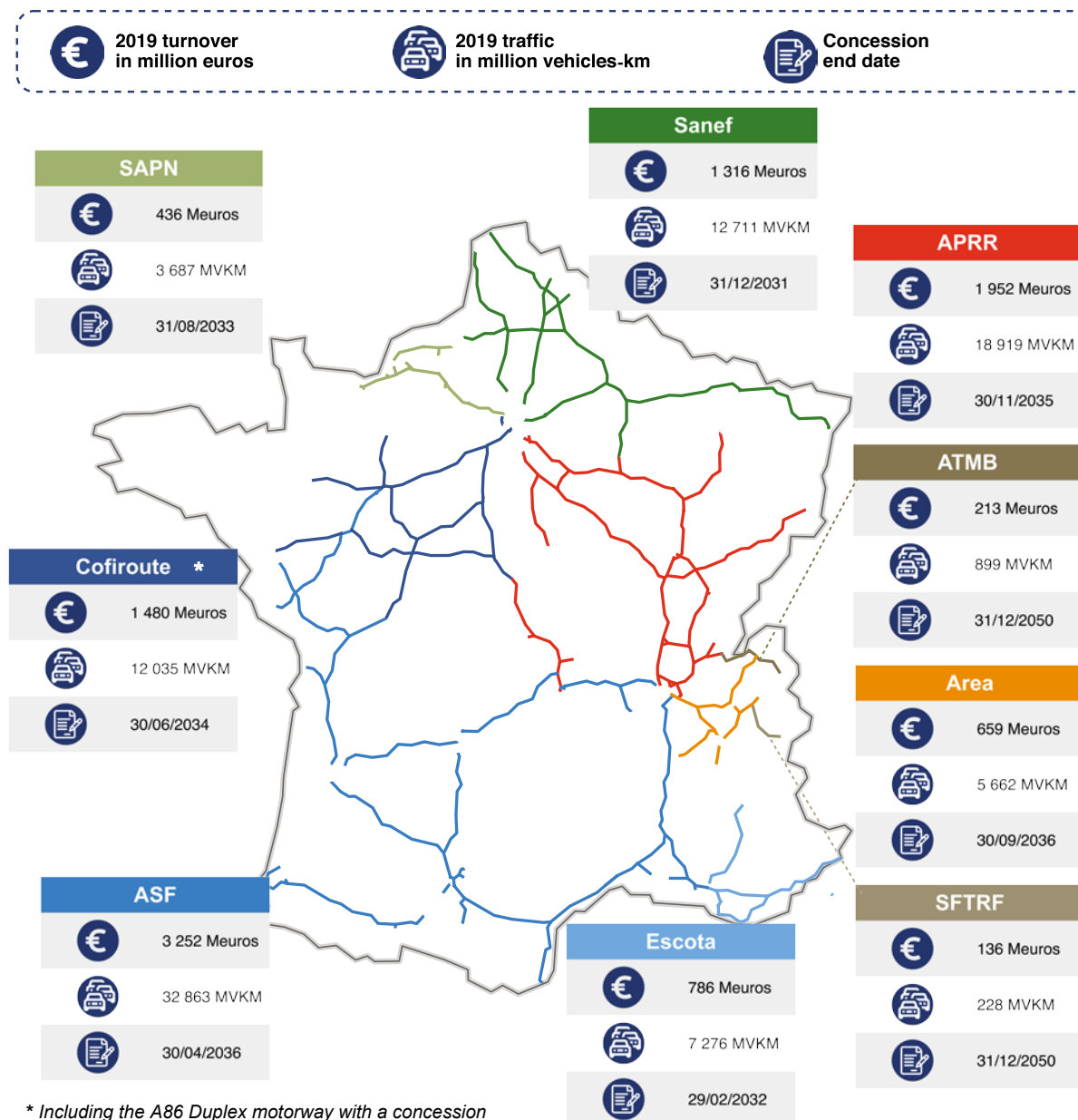
€1.9 bn
in investments
(+ 17.6% compared to 2018)

€0.076
per kilometre
excluding VAT

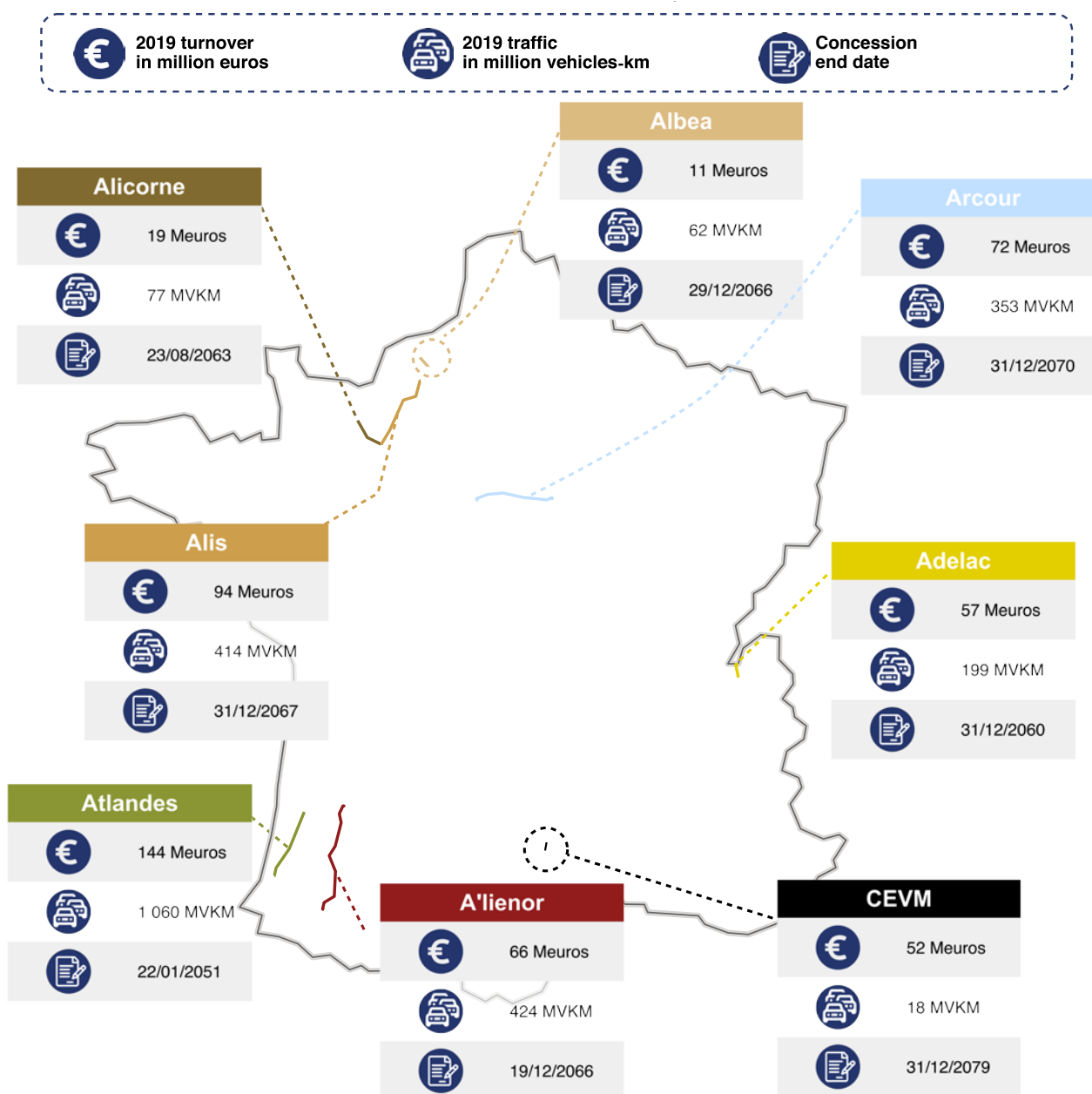
Average toll, for class 1 vehicles
on the French motorway
concessions
(+ 1.9% compared to 2018)

Turnover and traffic per concession

Historically held concessions



Recent concessions



The motorway sections conceded to the two concessionary companies Arcos and Aliae are not on this map since they were not open to traffic on 31 December 2019.

The economic and financial monitoring of the sector

The Authority ensures the proper functioning of motorway tolling regime. To this end, it draws up an annual overview of all concessionary company accounts and, at least once every five years, a public report on the economics of motorway concessions is published.



Annual overview of motorway concession accounts: reporting on the 2019 financial performance of motorway companies



No major peculiarities were highlighted by the Authority's overview of the motorway concession accounts for the 2019 financial year. In 2019, between the «Yellow Vests» protest movement and the 2020 health crisis, concession companies temporarily returned to their usual growth levels.

The turnover of the motorway concession companies — MCCs, reached €10.8 billion, up 3.8%, reflecting the simultaneous increase in traffic and tariffs. Toll revenues increased by 3.8%. After the «Yellow Vests» protest movement marking 2018, overall traffic growth returned to the 2017 level to stand at 2.1%. At the same time, the average rate per kilometre rose by 1.9% (average weighted by traffic).

Ancillary revenues (mainly fees paid by commercial operators) which represent less than 3% of MCCs' turnover, increased by 2.8%.

As a result of revenue growth and of lower financial expenses, MCCs collectively saw their net income rise sharply to €3.5 billion. This turnover improvement was reflected on the EBITDA margin, which increased by 5.7% over that period. At the same time, MCCs' financial expenses fell further in 2019 (minus 14.6%), given the reduction in their cost of debt. While the increase in revenues resulted in an 11.7% increase in corporate income tax, the sector's net income was up by 10.8%.

Once again, the 2019 financial year was characterised by an increase in investments (€1.9 billion, up 17.6%), and by an increase in dividends (€3.1 billion in 2019 against €2.9 billion in 2018); however, the dividends remained lower than those paid in 2015 and 2016 (€3.3 billion and €4.7 billion respectively).



ZOOMING IN

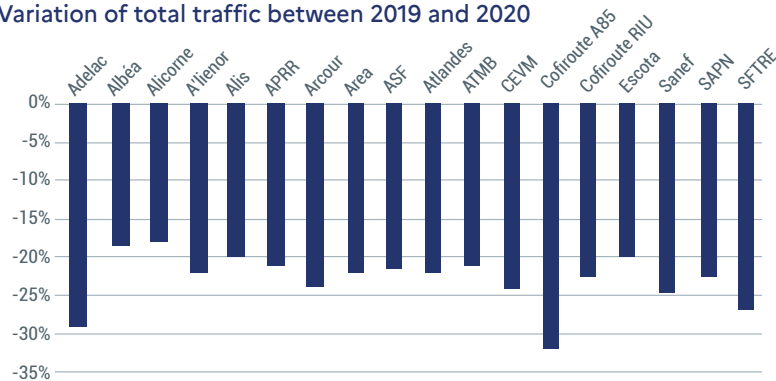
on the impact of the health crisis on the motorway sector

In the overview of accounts for the 2020 financial year, the Authority will assess the impact of the Covid-19 epidemic.

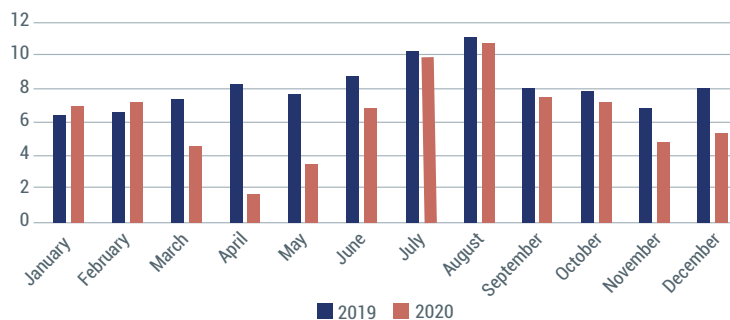
However, some initial figures can already be published in this Activity Report.

In 2020, traffic on the French motorway concessions plummeted to an average of 22%. This average conceals significant disparities depending on vehicle categories, networks, and the time of year.

Variation of total traffic between 2019 and 2020



Traffic over the French motorway concessions
(in millions of vehicles-km)



Unlike heavy goods vehicle (HGV) traffic, light vehicle (LV) traffic has been severely impacted by the crisis. Indeed, the annual traffic loss for LVs is 24% on average in 2020, versus 8% for HGVs. This explains why the impact of the health crisis on annual traffic is more obvious on some motorways, eg. the Adélaïde network (- 29%) and the A86 Duplex tunnel (- 32%).

Traffic decreased mainly during the first lockdown in spring 2020. It was also impacted during the second lockdown in autumn 2020 and even outside these two periods. The first lockdown (17 March 2020 to 11 May 2020) corresponds to an 80% drop in traffic during the month of April. The impact during the second lockdown (30 October 2020 to 15 December 2020) is more limited. Traffic dropped by 31% and 32% for the months of November and December respectively, this more limited drop in traffic being the result of less stringent lockdown measures. The period between the two lockdowns also failed to recover 2019 traffic level. Traffic was 3% lower in July and August 2020 than in the same months of the previous year, and 8% and 9% lower in September and October.

Sanitary measures during the first lockdown led to works coming to a halt, leading to potential delays in commissioning and possible increased costs for certain MCCs. The impact of the first lockdown on motorway works is indeed significant: the halting of worksites and, more generally, of a large portion of the economic activity, generated a loss of activity in the public works sector estimated at more than 50% over the months of March, April and May 2020 (lack of supply of materials and equipment; workforce unavailability; declining public order, etc.). This will lead to delays in the commissioning of works or additional costs to compensate for these delays. For example, works on the Strasbourg western bypass (Grand Contournement Ouest — GCO) were entirely suspended during this period.

Activity on worksites picked up extensively again, facilitated by the implementation of the good practice guide distributed during the first lockdown by the Professional Organisation for Prevention dedicated to Construction and Public Works (OPPBTP). Production yields remain impacted at works sites where multiple companies are involved — for example for the construction of engineering structures. In addition, the slowing down of administrative procedures and some engineering consultants switching to part-time work have had an impact on the time required to produce studies, which in turn delayed the launching of construction projects. Effects on activity therefore remain significant and despite a rise in activity during the summer, the public works sector notes a loss in turnover of minus 12.5% over the entire year.

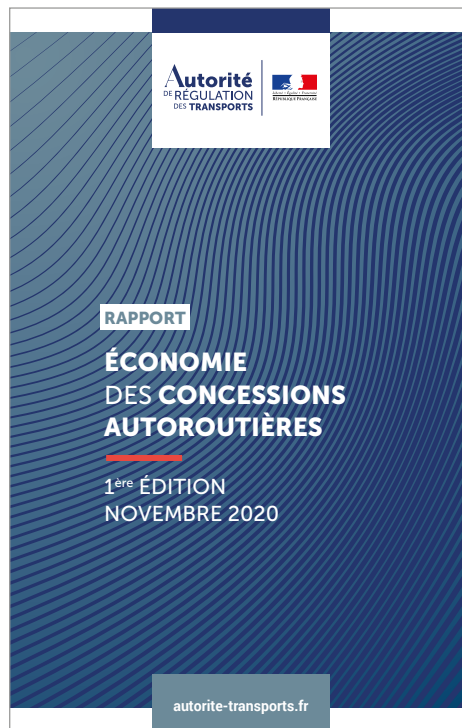
The economic and financial monitoring of the sector

The report on the economics of motorway concessions: to inform and enlighten the public debate

Article L. 122-9 of the French Roadway Code stipulates that the Authority shall draw up at least once every five years, a public report on the economics of motorway concessions and shall carry out an annual monitoring of internal rates of return for each concession. Within this framework, on 30 July 2020, ART adopted its first public report on the economics of motorway concessions (Rapport Public sur l'Économie Générale des Concessions d'Autoroutes – the EGC report).

This first report draws on previous analyses carried out by the Competition Authority, the Economic Analysis Council, the Court of Audit and the Parliament. It was however drawn up from ART's unique perspective: that of a sector regulator whose mission is to ensure proper performance of the tolling regime.

In September 2020, the Senate's Inquiry Committee into the control, regulation and development of motorway concessions published a report that picked up some of the recommendations of the above mentioned EGC report, requesting the strengthening of ART's role and powers. This could alter the balance in contracts, for the benefit of both the State and the users.





ZOOMING IN

on the French Senate's Inquiry Committee as it recommends
strengthening ART's means of control and reinforcing its independence

In its report, the Senate's Inquiry Committee considers that the control and regulation of the motorway concessions must be strengthened. While it considers that the regulatory powers entrusted to ART have undoubtedly helped to rebalance relations between the State and the motorway companies, the Inquiry Committee notes that these motorway companies often remain in a position of strength vis-à-vis the concession grantor.

Consequently, the Committee recommends, on the one hand, reinforcing ART's independence by increasing the number of staff dedicated to regulating motorway concessions and by preserving its financial independence¹, and, on the other hand, by giving ART greater access to the information it needs to carry out its duties. Regarding this second point, the Committee emphasises that the documents sent to ART under Article R.122-27 of the Roadway Code are insufficient to allow a close study of the provisions in the drafts of new contracts, particularly those relating to forecast costs. It therefore recommends that the State provides ART with all suitable information relating to the choice of concession companies selected for the award of new motorway concession, in particular files submitted by unsuccessful bidders. To this end, it recommends that Article L. 122-8 of the French Roadway Code be completed to provide, for the purposes of its investigations, that ART shall be given any document that it deems useful for its work².

¹ See Volume I of Report No. 709, filed with the Senate President's Office on 16 September 2020, on behalf of the Inquiry Commission into the control, regulation, and development of motorway concessions, by Mr Éric Jeansannetas (Chairman) and Mr Vincent Delahaye (Rapporteur), pages 240 and 241 (Part 3, II, D. «Human and financial resources that should be reinforced»).

² Ibid, pages 247-248 (Part 3, III, B. «Reinforcing ART's role in the awarding of new concessions»).

The economic and financial monitoring of the sector

The Authority's monitoring of the profitability of motorway concessions has allowed to factor in the economic specificities of this sector.

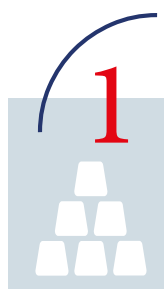
In order to monitor motorway concession profitability, the Authority measured an internal rate of return (IRR) which factored in the MCCs' economic model. Factoring in the specificities of their industry — high investments, low capital turnover, debt burden —, as well as the concession format — controlled prices, long-term contractual commitments, low share of own assets — is indeed crucial to assess their profitability.

The measured IRR corresponds to the return on capital paid by the user via tolls over the entire duration of a concession. Unlike the studies carried out by the Competition Authority in 2014 or by the Senate Inquiry Committee, ART's study considered the entire duration of the concession and not just the period following privatisation. By measuring in this way, the indicator provides an overall view of the concessions' profitability.

The IRR on concessions in 2019 is at 7.8% for historic concessions and at 6.4% for recent concessions. From its monitoring profitability of motorway concessions between 2017 and 2019, the Authority concludes that the profitability has not significantly increased in value over that period. It is true that toll revenues were higher than anticipated in the forecast studies submitted to the Authority in 2018, but over the life of a concession, the impact in terms of profitability remains low. The other major event during that period — i.e., the signing of the motorway investment plan (PIA) by the incumbent companies — did not have a significant effect on the profitability of the concessions either.



Motorway concessions: a unique economic model



1

Significant debt:
creditors weigh
9.7 times more
than shareholders



4

Long contracts:
between 40
and 87 years



2

A fixed capital
representing more
than 3 times the
revenues per annum



5

An infrastructure
that remains
property of the State:
the motorway is
returned to the granter



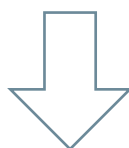
3

Major investments:
2.9 times the operating
costs



6

Toll increases
capped at 0.7 times
the inflation



Profitability of concession
investments

6.4% per annum

7.8% par annum

Recent companies

Historic companies

The economic and financial monitoring of the sector

The Authority formulates three major recommendations on pricing and on the main concerns to factor in when looking ahead.

1

Improving collective welfare by developing toll rates adjusted according to geography and time

- Regulate toll rates according to congestion to make better use of the infrastructure in the short term.
- Adjust toll rates as well as purchasing power to optimise infrastructure use in the long term.
- Avoid subsidies between users of different sections of motorway to bring the price closer to the service provided.

2

Adopting a strict definition of the «good condition» in which the infrastructure is to be given back

- For current contracts, defend the State's interests as best as possible regarding the returning of the motorway.
- For future contracts, clarify expectations with a view to optimising asset management.

3

Considering all possible ways of organising the sector, beyond the continuation of concessions and the replacement by a public contractor (Régie).

- Reduce contract duration to benefit from competitive tendering more often.
- Consider a periodic review of contractual balance.
- Seek risk sharing that provides best incentives for private operators.

The regulation of toll rates

Pursuant to Article L. 122-8 of the French Roadway Code, the Authority is consulted on draft amendments to the delegation agreement, the annexed specifications or any other contract, when they have an impact on toll rates or on the duration of the delegation agreement. In 2020, the Authority issues two opinions on draft amendments to concession contracts.



Opinion on the second version of the draft amendment to the concession agreement between the State and motorway concession holder Atlandes

On 30 January 2020, in its Opinion on a draft amendment to the concession agreement between the State and concession holder Atlandes on the upgrading of the A63 motorway's access road n°9, the Authority indicated that this upgrading did not meet the requirements of the law.

In the Authority's view, upgrading works had not been provided for in Atlandes' specifications but these upgrading works met the strict condition of necessity or usefulness as defined in Article L. 122-4 of the French Roadway Code,

thus authorising compensation of the concession company by way of rates. The Authority however considered that the upkeep and maintenance of access road n°9 was an obligation established in Atlandes' initial concession contract, and that said upkeep and maintenance could not, therefore, cause an additional increase in toll rates, contrarily to what was provided for in the draft amendment submitted: nearly half of the additional toll increase envisaged was intended to cover said upkeep and maintenance expenses.

The regulation of toll rates

Furthermore, the Authority, having established a reference cost based on its own estimate of quantities and unit prices, noted that the expenditure forecasts used by Atlandes to determine the rate increases needed to compensate for the upgrading works on access road No. 9, were rather high and were not strictly limited to what was necessary.

Finally, the Authority noted that the difference between its reference cost and Atlandes' forecasts was due mainly to provisions for risks relating to the presence of asbestos and to bridge pier resistance. This could have been justifiable in 2015, when Atlandes' estimate was made, but these provisions had been lifted by the time the Authority reviewed the draft amendment and should have been removed from the amount to be compensated.

In the contract amendment, finally approved by the ministerial order on 13 November 2020, the coefficient increase for toll rates applicable in 2021 to compensate for the works was brought down from 0.39% to 0.34%. Although cost estimates appear to have been updated as recommended by the Authority, the latter's Opinion was only partially taken into account.



ZOOMING IN

on a point of doctrine raised by the amendment to the contract: the works in question had been completed before the amendment was signed

The Authority noted that it had received the draft amendment to Atlandes' concession contract after the works in question had been carried out, these works being used to justify an additional increase in toll rates.

Such a time sequence does not seem to be in line with the spirit of the legislator. Indeed, by providing for the Authority to be consulted on draft amendments to a delegation agreement, the legislator intended to enable the Authority to provide an upstream, objective and independent assessment of why the user would be financing the planned operations, thus making it possible to revise the contractual conditions initially envisaged should the regulator consider that they had not been drawn up in compliance with the rules set out in Article L. 122-4 of the French Roadway Code.

The Authority nevertheless considered that this situation did not affect the usefulness, for users, of the regulator's opinion, which could have led the parties to review the toll rate conditions when implementing the new contractual obligations.

Opinion on the eighth draft amendment to the concession agreement between the State and concession company ATMB

On 19 March 2020, in its Opinion on a draft amendment to the concession agreement between the State and Société des Autoroutes et du Tunnel du Mont Blanc (ATMB) reflecting the contract foreseen for the period extending from 2021 to 2025, the Authority considered that said contract did not meet the requirements of the law.

The authority shared the opinion that most of the envisaged operations had not to be included in the ATMB specifications. The Authority nevertheless considered that three operations (representing 3% of the amount charged to users via tolls), included in the 2021 to 2025 planning contract and having an impact on tolls, did not meet the strict condition of necessity or usefulness as defined in Article L. 122-4 of the Roadway Code. Listed among these operations, was the co-financing of a «rustic trail» for mountain bikers and pedestrians between the villages of Les Houches and Servoz.

In addition, the Authority noted that three operations (corresponding to 50% of the amount charged to users via tolls) had a forecast cost that was more than 10% higher than the reference

cost that ART had established, while the information provided on two other operations (corresponding to 6% of the amount charged to users via tolls) was not sufficient to give an opinion on the forecast cost.

Consequently, and pursuant to the meaning of Article L. 122-4 of the Roadway Code, the Authority considered that for nine operations only — corresponding to 41% of the amount charged to users via tolls — did the increase in toll rates intended to ensure the financing of improvements, appear to be strictly limited to what was necessary.

Although in the amendment finally approved by the ministerial order of 2 December 2020, the coefficient for increasing toll rates over the 2021 to 2025 period, which, pursuant to the company contract, is set at 0.33%, had not been modified, the Authority's Opinion had nevertheless been partially followed: indeed, the co-financing of the «rustic trail» project between the villages of Les Houches and Servoz was no longer included in the list of operations giving rise to compensation for ATMB.



ZOOMING IN

doctrine's point raised by the contract amendment: the intended use of a potential unwarranted financial payment

In its Opinion No. 2020-023 of 19 March 2020, the Authority reminded that its analysis covered all operations impacting toll rates directly or indirectly.

For the Authority, additional works or developments financed with the amount due by the motorway concession company under the clause for the return of unwarranted financial payments (set up in case of a discrepancy between a forward schedule and an actual schedule of expenditures for investments compensated for by a past tariff increase, in particular in the event of the abandonment of certain investments compensated for by a past tariff increase) have an impact on toll prices. Indeed, if these operations were not carried out, the available funds could then be used to reduce the toll increase.

To ensure that the interests of the users are properly factored in, the Authority considers therefore that it is responsible, as far as these operations are concerned, for checking compliance with all conditions set out in Article L. 122-4 of the Roadway Code.

ZOOMING IN

on consolidating the Authority's methodology for a counter-expertise of operational costs

In 2020, by structuring a «Price» database, the Authority strengthened its expertise of motorway operations costs. Indeed, the first opinions issued by the Authority on amendments to motorway concession contracts, particularly those relating to the implementation of the motorway investment plan (plan d'investissement autoroutier — PIA), highlighted the need to have objective data that could be used to counter-expertise costs. To this end, the Authority has built a database on the costs of capital expenditure projects on the motorway, based on data collected from motorway concessionary companies (MCCs). This database includes both data on the cost of capital expenditure operations, and the price levels observed for certain recurrent standardised services outsourced by the concessionary companies.

In 2021, in accordance with its strategic guidelines for the 2021 to 2022 period, the Authority will continue to work on consolidating its cost analysis methodology. Its aim is to help ensuring, for the benefit of motorway users, that projects are contracted based on studies that prove more robust on financial matters. To achieve a collaborative methodology, the Authority is working with State, more specifically with the concession grantor, i.e., the Directorate for Transport Infrastructure (Direction des infrastructures de transport — DIT) and the Centre for Studies and Expertise on Risks, Environment, Mobility and Spatial Planning (Centre d'études et d'expertise sur les risques, l'environnement, la mobilité et l'aménagement — CEREMA). The Authority is working on clarifying the precautions to be taken when using this data to determine prices relevant to the context of each project and the approach to be adopted for the valuation of risks.

Controlling the awarding of motorway service areas contracts

There are over 350 service areas (fuel distribution, restaurants, shops and hotels) on the French conceded motorways. The performance of these activities is mainly outsourced to third parties. The terms and conditions for awarding contracts for the performance of ancillary commercial facilities to third parties are regulated.



A spike in referrals relating to draft approvals for service areas contracts

Any successful bidder of a contract concluded by an MCC for the construction, operation and maintenance of service areas located on the conceded motorways must follow the procedure to obtain ministerial approval, provided in the Roadway Code. The minister in charge of national roadways issues an approval after receiving the Authority's opinion. The Authority will have checked compliance with the procurement rules on advertising and competition. Upon checking, if it appears that the purpose of the operating contract is to distribute fuel, the Authority must analyse the effectiveness of the commitments intended for fair pricing. In 2020,

Controlling the awarding of motorway service areas contracts

the Authority received 51 draft service areas contracts. These referrals resulted in 28 opinions, 26 of them were favourable (1 was «deemed favourable») and 2 were unfavourable. This is the highest number of referrals over a year since the legal system came into force. Indeed, a sizeable wave of service areas contract renewals is underway. It started in 2019 and should run through 2021.

At the same time, the Roadway Code also provides that the Authority is aware of draft amendments to contracts for which a procedure was initiated after 1 April 2016. In 2020, the Authority thus received 19 draft amendments to service areas contracts. All these amendments received ministerial approval.

	2017	2018	2019	2020
Number of opinions issued on service areas contracts	2	6	21	28
... including unfavourable opinions	1	1	12	2
Amendments forwarded to ART	6	16	18	19

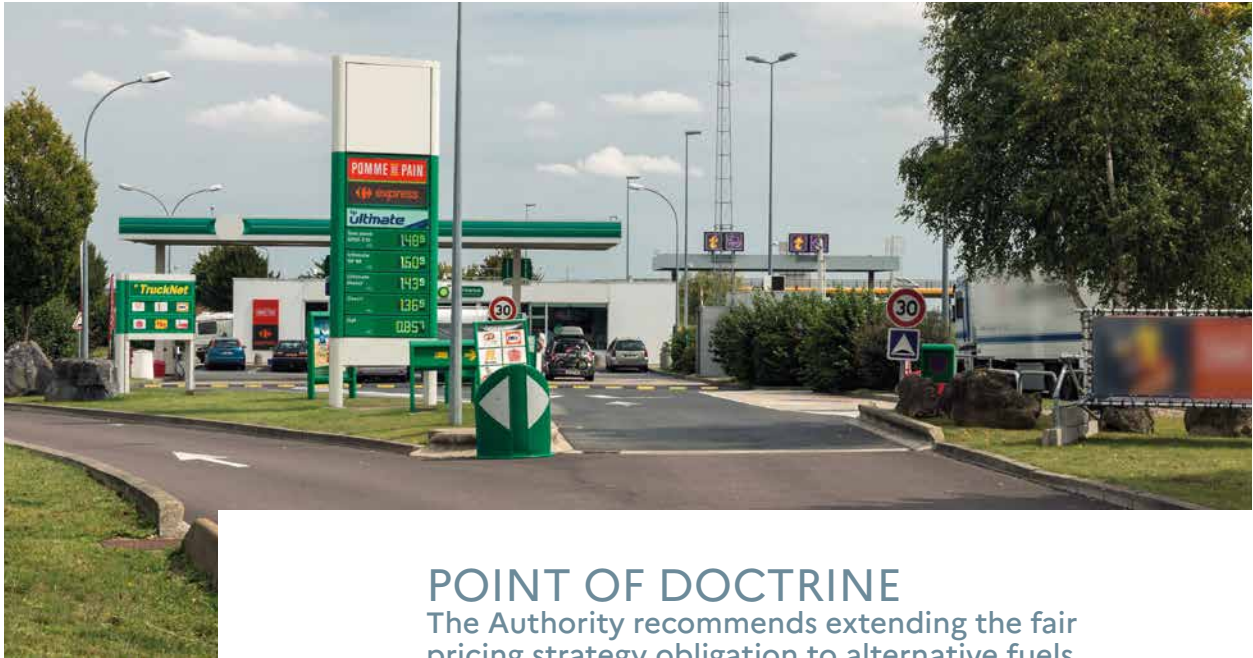


POINT OF DOCTRINE

The scoring method for the fair pricing strategy criterion should factor in the differences between applicants

In its Opinion No. 2020-066 of 15 October 2020 on the procedure for the concession company ASF to award the contract to operate fuel distribution, shop and hotel activities at the Corbières Nord service area on motorway A61, the Authority points out that the scoring method used by the concession company leads to reducing the weight of the differentials between prices. It considers that the effect of such a scoring method is to neutralise the fair pricing strategy criterion, since the bids are ultimately differentiated based only on the other selection criteria. To illustrate this point, the Authority had pointed out that, because of the implementation of this method, the preferred bidder would remain unchanged, even if he offered tariffs higher than €2.30 per litre of diesel fuel, thus running counter to the fair pricing objective.

The Authority had therefore invited the concessionaire to introduce a scoring method for the fair pricing criterion, therefore factoring in the actual variances between applicants.



POINT OF DOCTRINE

The Authority recommends extending the fair pricing strategy obligation to alternative fuels

In November 2020, a matter was referred to the Authority for the first time: a project concerning the sole activity of operating electric vehicles (EV) charging points.

In its Opinion No. 2020-084 of 17 December 2020, the regulator recalled that, considering the texts in force, the provisions of Article R.122-41 of the Roadway Code on fair pricing obligations for the distribution of fuel, were not applicable to the distribution of alternative fuels, in particular electricity supplied by the charging points. The concession company is therefore not obliged to specify a fair pricing strategy criterion, nor to assign to this criterion a weighting equivalent of the criterion relating to the fee paid to the concession company. In the case at hand, the concession company chose a sub-criterion relating to pricing policy, but with a weighting of 8%, thus lower than the 25% weighting given to the «financial value» criterion.

The Authority thus has drawn the Minister's attention to the importance of extending the obligation of fair pricing to all categories of fuel distributed at ancillary facilities of a commercial nature, including electricity supplied at charging forecourts. The Minister responsible for national roads has followed the Authority on this point. In January 2021, the Minister submitted to ART a draft decree, extending the obligation of a fair pricing strategy to the distribution of common energy sources, including electrical energy, and requested an opinion³.

³ See Opinion No. 2021-022 of 18 March 2021 on the draft decree relating to experiments to deploy charging points for electric vehicles on the motorway network and modifying the criteria in procurement tenders for commercial facilities.

Controlling the awarding of motorway service areas contracts

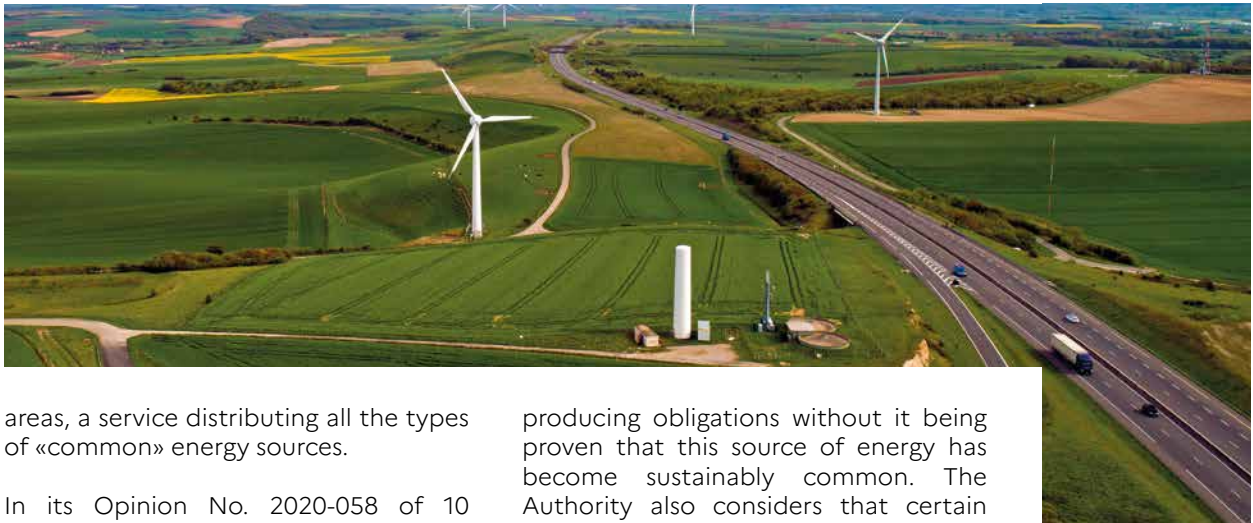
Ecological transition obligations: how to enhance the fitting

On 26 June 2020, the Minister responsible for national roads referred to the Authority a draft decree on the obligations applying to motorway delegation agreements in terms of ecological transition, as well as a draft order amending the Order of 8 August 2016 setting the conditions for organising public service at ancillary facilities located on the conceded motorways.

These two draft regulatory acts create new obligations for MCCs to promote ecological transition of motorways as well as carbon-free road transport. MCCs must therefore offer at their service

financing them should be through a tariff paid by the users who benefit individually from these services.

In its Opinion, the Authority noted that, based on the texts submitted, the fitting of these obligations could be enhanced. In particular, the Authority considered that the definition of a “common” energy source — any energy source used by more than 1.5% of motor vehicles registered annually or by at least 5% of the motor vehicle fleet in circulation is too broad, particularly because the thresholds adopted and their methods of application run the risk of mechanically



areas, a service distributing all the types of «common» energy sources.

In its Opinion No. 2020-058 of 10 September 2020, after pointing out that the methods for financing these new obligations were not provided for, the Authority specified that, when new obligations are imposed on concession companies, the preferred choice for

producing obligations without it being proven that this source of energy has become sustainably common. The Authority also considers that certain targeted service areas could possibly be excluded, to reduce the costs of the measure, without substantially reducing the level of service.

The control and regulation of motorway concessions

Finally, in this Opinion, the Authority was keen to stress that, if the financing of the new required investments in ancillary facilities is to be based at least in part on motorway tolls, it would make sure as regulator, that this arrangement did not lead to an excessive increase of tolls in relation to the number of users who would benefit or would be likely to benefit from these new obligations, nor that it would prompt the delegate into making oversized investments.



Most of the Authority's recommendations have been acted upon. Indeed, since the publishing of its opinion:

- Decree No. 2021-159 of 12 February 2021 on the obligations applying to motorway delegation agreements regarding the ecological transition has defined a «common energy source» as any energy source used by more than 1.5% of motor vehicles registered for two consecutive years or by at least 5% of the motor vehicle fleet in circulation.
- Order of 15 February 2021 amending Order of 8 August 2016 setting the conditions organizing public service at ancillary facilities located on the conceded motorways has raised the attendance threshold for category 1 service areas from 10,000 vehicles per day to 15,000 vehicles per day, reducing the number of service areas targeted by the new energy distribution obligations by approximately twenty.
- Credit lines have been opened in the 2021 Finance Act to support the deployment of infrastructure for electric vehicles charging points on the national motorway and road networks. Article 1 of Decree No. 2021-153 of 12 February 2021 on aid for investments in fast charging electricity facilities for electric vehicles on major roads, provides that aid in the form of a subsidy may be granted by the State to companies that make an investment relating to an electric vehicle charging service activity at service areas located on the public motorway domain and on the public domain of the national roadway network.

The control of contracts awarded by motorway concession companies

The Authority monitors the procurement and contracting procedures implemented by the motorway concessionary companies (MCCs). As an economic sectorial regulator, the Authority is the watcher of economic public policy and more specifically, of effective and fair competition in the sector.



ZOOMING IN

the Authority as a watcher of economic public policy
confirmed by the Court of Cassation

In December 2017, the Authority lodged an application for interim measures against the use of a scoring method that indirectly led to the selection of the bidder on the sole criterion of price in a tendering procedure for the award of a works contract by ASF, the concession contract holder.

The Authority's reasoning had not been followed by the trial judge on the grounds that, even if the scoring method is changed, the result of the consultation will remain the same. In the Authority's view, such an approach could not be adopted since it would have the effect of restricting its ability to lodge interim measures exclusively to situations where a failure detected by the Authority would have had the effect of harming the interests of an unsuccessful bidder. The Authority therefore appealed to the Court of Cassation against the decision of the High Court (Tribunal de Grande Instance).

Following the opinion of the Advocate General, the Court of Cassation, in a Ruling of 15 January 2020, confirmed the position of the Authority and stated that the review by the court in interlocutory proceedings, should have been carried out in abstracto, without concern for the actual effects on the selection of the successful bidder.



The 5th Annual Report on procurement and contracts awarded by motorway concession companies

In 2020, the Authority published its 5th Annual Report on procurement and contracts awarded by motorway concession companies during the 2019 financial year.

The Report shows a decrease in the number of procurement contracts submitted to the MCCs' Contract Award Commission compared to the previous year, with a volume of 346 contracts for a total of €790 million in 2019 compared to 412 contracts for a total of €1.2 billion in 2018. The decrease in the value of contracts submitted to the MCCs' procurement commissions must be considered versus the decrease in the value of contracts awarded under the motorway recovery plan (€303 million in 2019 versus €484 million in 2018).

The Report describes the Authority's work on the awarding of contracts by MCCs to companies that are connected to them through equity links. In 2019, the rates concerning awards to connected companies are practically the same as

the average number of awards made to those same companies, i.e., MCCs did not award more contracts to their connected companies than these companies could obtain from the entire public works sector. However, the Authority noted a downward trend since 2017 in the share awarded to connected companies, a trend that is undoubtedly linked to the introduction of tendering advertising rules and controls by a sector regulator.

This Report has also made it possible to take stock of the Authority's prerogatives and the possible changes that could be introduced to strengthen or improve the system in force, both with regard to the control of tendering processes and to service areas contracts. These developments and improvements were largely recorded in the report published by the Senate Inquiry Committee on the control, regulation and development of motorway concessions, filed with the Senate President's Office on 16 September 2020 (see the 'Zooming in' section on the following page).

The control of contracts awarded by motorway concession companies

ZOOMING IN

on main recommendations of the Senate Inquiry Committee to strengthen the control of service areas procurement and contract procedures

In its report, the Senate Inquiry Committee on the control, regulation and development of motorway concessions made several recommendations aimed at reinforcing the control of procurement transactions and contracts awarded by MCCs.

Recommendations on procurement contract monitoring⁴

- Clarify the concept of «concession needs»

Advertising and competitive tendering obligations of MCCs are limited to contracts awarded for the «needs of their concession» (Articles L.122-12 and L.122-13 of the Roadway Code). However, no definition of this concept is provided.

Noting that a restrictive interpretation of the concept of 'concession needs' would risk [...] reducing the scope of ART's control and would question some of the regulator's essential missions, the Inquiry Committee considers that it is urgent to provide for a legislative or regulatory amendment — if necessary, via a delegated regulatory procedure, in order to clarify this concept.

- Specifying sanctions in the event of failure to comply with the obligations to transmit MCCs draft contracts to ART

To strengthen the Authority's capacity to exercise recourse in the event of a breach of the advertising and competitive tendering obligations by MCCs, the report of the Senate Inquiry Committee proposes an amendment to Article L. 1264-8 of the Transport Code to allow the Authority to penalize a posteriori the MCCs for not having fulfilled their obligations to transmit tendering contracts to ART.

- Clarify the procedures for the publication of MCCs' five-year investment plans

In the interests of transparency and in accordance with Article R.122-31, IV, 1° of the French Roadway Code, the plan for all investments over the 5 subsequent years must be posted on the buyer profile of MCCs if they are not the contracting authorities.

No particular formalism is required from MCCs with regard to this investment plan. Hence, its level of accuracy depends solely on the MCC's own initiative. The Senate Inquiry Committee therefore proposes to specify via regulatory procedure, the minimum of information on the five-year investment plan that must be posted on the buyer profile of each MCC.

⁴ See Volume I of Report No. 709, filed with the Senate President's Office on 16 September 2020, on behalf of the Inquiry Commission into the control, regulation, and development of motorway concessions, by Mr Éric Jeansannetas (Chairman) and Mr Vincent Delahaye (Rapporteur), pages 233 and 235 (Part 3, II, D. «Human and financial resources that should be strengthened»).



Recommendations regarding the control of service areas contracts⁵

- Provide for regular monitoring of actual fuel prices by MCCs

Monitoring of the actual implementation of contractual commitments regarding fair pricing strategy depends on the monitoring that the MCC is likely to carry out with its service areas operators and, in the event of a non-compliance, on the enforcement of sufficiently dissuasive penalties by the MCC, provided that such clauses had been included in the contract signed with the service area operator.

To ensure that the commitments of service area operators to a fair pricing strategy are effectively complied for the users, a regular (half-yearly or annual) assessment of the actual prices applied per category of fuel in relation to the commitments to a fair pricing strategy and the penalties applied in the event of a breach, could be transmitted jointly to the State and to ART by the MCC. According to the Senate Inquiry Committee, ART could in turn carry out a second-level control, with the power to impose sanctions in the event of the MCC's failure to comply with its control duty.

- Authorise ART to collect all relevant data from service areas operators

Collecting information from service areas operators is an important issue for ART, particularly to assess, based on financial and accounting data, whether the duration of contracts does not exceed the time reasonably expected by the operator to amortise the investments made. The Commission therefore recommends that ART be authorised to collect all relevant data from service areas operators.

⁵ Ibid., pages 237 to 239.

The control of contracts awarded by motorway concession companies

Proposal for a list of procurement contracts excluded from advertising and competitive tendering obligations

As Article 163 of the Mobility Act No. 2019-1428 of 24 December 2019 has added a new category of exceptions to the advertising and competitive bidding obligations applicable to majority private owned MCCs, supply or service contracts that do not have a direct and specific link with the missions that have been delegated to the MCC in accordance with Article L. 122-4 of the Roadway Code, will no longer be subject to the specific awarding procedures defined in that Roadway Code under Title II, Chapter II, Section 4.



To be exempt from any advertising and competitive tendering obligations, a procurement contract must have neither a direct and specific link with the tasks delegated to the MCC, nor any impact on the specific competitive mechanisms of the sectors concerned. Conversely, procurement contracts with a direct and specific link to the tasks delegated to the MCC or having an impact on the specific competitive mechanisms of the sectors concerned, remain subject to all advertising and competitive tendering obligations.

The mechanism provided for under Article L. 122-12 2° bis of the French Roadway Code to establish the list of procurement contracts exempt from advertising and competitive tendering obligations, sets two prior steps before the order is issued: after having referred the list of contracts exempt from advertising and tendering requirements to the Competition Authority for an opinion, the Authority is then responsible for submitting this list to the Ministers for economy and for transport.

Based on several exchanges with stakeholders and a consultation with MCCs, the Authority has drawn up a draft list proposing to exclude most supply and service procurement contracts awarded by MCCs, with the exception of contracts for the supply of fuel to service area users, contracts for project management and upstream studies and, lastly, contracts for supplies and services useful for the operation of motorways.

The draft list was referred to the Competition Authority by ART for an opinion on 18 December 2020.



The regulation of the coach market





The regulation of the coach market

The Authority refocuses its control on coach stops of high interest for liberalised coach services operators (LCS operators).

Following on from 2019, when the liberalised coach services market reached its highest point in five years, the health crisis linked to the Covid-19 pandemic brought continuous growth to an abrupt halt.

To contribute to effective competition on the market of regular intercity passenger transport by coach, and for the benefit of transport services users, the Authority has adapted its control strategy to focalise its action on coach stops of high interest for LCS operators.

• NETWORK •

10

LCS operators at the
end of 2019 – 2 of them
serving the whole
of continental France

320

connected
cities
(- 3 % in a year)

384

LCS stops including
141 enrolled
in the register
(+ 2 in a year)

• SERVICES AND DEMAND •



2,381
marketed routes
(+ 5% in a year)

112 million
coaches-km
(stable)

839
daily departures
(+ 1% in a year)

**[10.3 million;
11.3 million]***
passengers carried
(rising)

**[2.9 billion;
3.2 billion]***
passengers-km
(rising)

**[€132 million;
€148 million]***
in revenues
(rising)



€4.60
in revenues,
tax excluded,
per passenger-km
(- 6% over 1 year)

€13
in revenues, tax excluded,
per passenger for a 283 km
average journey
(- 11% in 1 year)

2,943 FTE
(+ 374 over 1 year)

25 g
CO₂ equivalent
per passenger-km
(equivalent to CO₂ released by TER passengers)

* See note 1, page 118.

The coach market

French Act No. 2015-990 of 6 August 2015 on growth, activity and equal economic opportunities, entrusted the Authority with a general mission of market observation. In 2020, the Authority published the sixth edition of its Annual Report devoted to the market of intercity passenger transport by coach and to bus and coach terminals.



2019 shows a stabilisation in the liberalised coach services

Since the second half of 2019, the French LCS market has been dominated by a duopoly, with only two operators operating a network over the whole of continental France: FlixBus and BlaBlaBus.

The exploration of new city served by LCS since the market was liberalised, comes to a standstill in 2019. In total, 320 French cities have been served by LCS operators during at least one quarter

in 2019; 73 cities, accounting for 88% of total attendance in 2019, have been served every quarter since the market was liberalised in 2015.

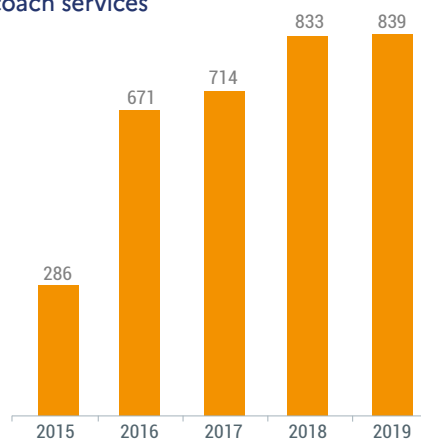
The seasonality factor of the LCS services is now well characterised, with a peak during the third quarter and a off-peak period during the fourth quarter.

LCS operators served 2,381 routes in 2019, up by 5% compared to 2018. This is the lowest growth since 2016. Competing routes account for only 84% of total attendance in the second half of 2019, down by more than two points compared to the first half of the year and to 2018. The market concentrated between two operators has therefore led to a shrinking of the share of passengers benefiting from competing offers.

After sharp increases in the number of daily departures of LCS in previous years, supply frequency remains stable in 2019. 69% of marketed routes are not run daily and 1% of routes accounts for over 10 or more return trips per day.

With 112 million coaches-km, the total distance travelled by liberalised coaches in 2019 is slightly down in 2018. FlixBus and Eurolines coaches cover 65% of this distance, down four points over one year. At the same time, BlaBlaBus and Ouibus account for 34% of coaches.km in 2019, three points more than in 2018.

Number of daily departures by liberalised coach services



Source : ART



A definite increase in attendance

Attendance has risen sharply in 2019 to between 10.3 and 11.3 million passengers¹, i.e., at least 1.4 million additional passengers in one year. The increase in demand is noted on all route categories (radial access or cross-linking routes). This growth is explained by promotional offers by the main operators which stimulated demand in the first half of the year and by modal shifts caused by the December rail strikes.

The ten busiest routes in 2019 account for 8% of departure supply, channelling 30% of passenger numbers and 29% of the turnover. When including passengers transiting on international routes, a total of between 14 and 15.4 million passenger¹ were carried in 2019 (compared to 12.4 million in 2018) over the entire network of LCS routes. Since the opening up of the market in August 2015, over 30 million passengers have been carried by LCS on domestic routes and cabotage connections.

**“ In 2019, almost
1 million passengers
journeyed on routes
of 100 km or less. ”**



Total attendance on routes of 100 km or less, accounts for 2.6% of the LCS demand in 2019 (compared to 2.4% in 2018) and has generated over 6% of total revenues. Thus, the LCS market is particularly dynamic and lucrative in its 100 km or less segment. In 2019, almost 1 million passengers travelled on routes of 100 km or less. In 2019, 68% of LCS passengers on routes of 100 km or less, representing more than 600,000 passengers, have transited through an airport.

¹ Due to the drop to 2 national operators starting the third quarter of 2019, it became necessary to apply data masking techniques to ranges of attendance data, in order to ensure business confidentiality.

A quality of service comparable to competing rail services

2,700 out of 330,000 scheduled coach journeys were cancelled in 2019.

In 2019, 12% of the coaches arrived at their terminus at least 15 minutes late, the same figure as in 2018. While the punctuality level for domestic routes falls in 2019 (11.7% of the journeys are late compared with 11.2% in 2018), punctuality improves on international routes with either a point of departure or of arrival in France (13.3% in 2019 compared to 16.3% in 2018). By way of comparison, the delay rate for international trains is 18% and varies between 11% and 16% for domestic trains (high speed compatible trains i.e., TAGVs and intercity trains).

Total revenue on the rise

The overall coach occupancy rate was at 57.8% in 2018. In 2019, it is on the rise due to increased attendance and a relatively stable offer, reaching above 62% in the first half of the year and between 58% and 70% in the second half².

The average revenue per 100 km is at €4.60 per passenger, down 6% compared to 2018 due to promotional offers at the beginning of the year.

All operators report an increase in revenue compared to 2018, ranging from €132 to €148 million in 2019.



Increased occupancy rate reducing CO₂ emissions per passenger.km

With a total workforce of 2,943 employees (full-time equivalent — FTE), 89% of whom are drivers, LCS operators employed an additional 380 FTEs. This represents 3% of the sector's employment (which stands at 102,000 FTEs according to the 2019 activity report of the French National Federation of Passenger Transport — Fédération Nationale des Transports de Voyageurs — FNTV).

With the mileage travelled and therefore relatively stable overall emissions, combined with a strong increase in attendance, there is a noticeable 28% reduction in CO₂-equivalent emissions per passenger-km between 2016 and 2019 figures.



² Due to the drop to 2 national operators starting the third quarter of 2019, it became necessary to apply data masking techniques to ranges of attendance data, in order to ensure business confidentiality.

Strong modal competition from rail services, especially high-speed rail

In 2019, 31% of LCS routes³ were operated by at least one other intercity land transport service, compared to 35% in 2018.

For 30% of the routes and 82% of the attendance, an alternative journey of all types of rail services is available. The high-speed train offer (TGV) remains the main alternative to LCSs (as they both operate 19% of the routes, representing 68% of the attendance). However, the regional public coach services are not really an alternative to the LCS since only 36 out of the 2,381 routes operated by a LCS in 2019 are also served by a regional public coach.

On routes without LCS competition, the average revenue per passenger per 100 km is €5.13, compared to €4.57 on all LCS routes, whether there is intermodal competition or not. This difference is explained in part by the competitive pressure exerted by other modes.

ZOOMING IN

the impact of the health crisis was strongly felt by the LCS sector, starting at the end of the first quarter of 2020

The Authority will report specifically on the impact of the health crisis linked to the Covid-19 epidemic on the LCS sector in its annual report on the coach market and on coach terminals in France in 2020. Some preliminary elements are nevertheless submitted below in this Activity Report.

As in 2019, at the end of the first quarter of 2020 nearly all operators had to interrupt commercial traffic on March 17, at the start of a new lockdown period. Between 2 and 2.5 million passengers⁴ were transported during the first quarter of 2020, a figure comparable to the first quarter of 2019. The consequence of the January SNCF strikes offset the halt in activity at the end of March. Only four operators resumed activities at the very end of the second quarter of 2020. BlaBlaBus and FlixBus, the two operators operating a national network, resumed their journeys on June 24 and June 18 respectively. When they restarted, operators BlaBlaBus and FlixBus focussed on a limited portion of their respective networks, with journeys offered on less than 30% of the routes they had offered the previous year. Network density was thus directly impacted by a variation in the number of routes.



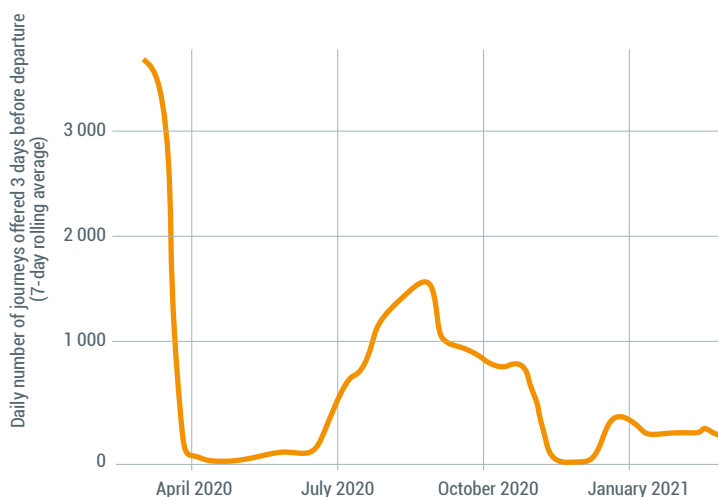
³ Including regional public coaches and TERs, as well as Intercity, TER, TGV and Ouigo trains.

⁴ Due to the drop to 2 national operators starting the third quarter of 2019, it became necessary to apply data masking techniques to ranges of attendance data, in order to ensure business confidentiality; see the "Caveat" at the beginning of the 2019 coach market report.

“As in 2019, at the end of the first quarter of 2020 nearly all operators had to interrupt commercial traffic on March 17, the start of a new lockdown period.”



Liberalised coach services offer



Over the few days during the second quarter when coach services were operating, 113 daily departures were observed over the operators' total effective operating period, less than the level observed at market opening up in 2015, indicating a slow recovery of the coach mode in the transport services over this period. As part of the Authority's observation of market offers, measured in the graph opposite by the changes in the weekly average of daily journeys offered for sale three days before departure on a panel of 70 routes, it appears visibly that traffic gradually recovers during the third quarter, without returning to its level of the beginning of the year, then seems to stagnate or decrease starting at the end of August, before coming to a virtual halt as a result of the second lockdown on October 29. Traffic resumed somewhat with a single operator and in a limited way, starting on 17 December 2020.

Towards a stabilisation of the number of marketable routes of 100 kilometres or less



The French Transport Code, in particular Articles L.3114-17 et seq., authorises LCS passenger transport services by coach. Lines of 100 kilometres or less, however, are subject to specific guidance. Although the health crisis has led in 2020, to a drop in the number of notifications of the introduction of such routes, the fact remains that the total number of marketable connections of 100 km or less remains stable.

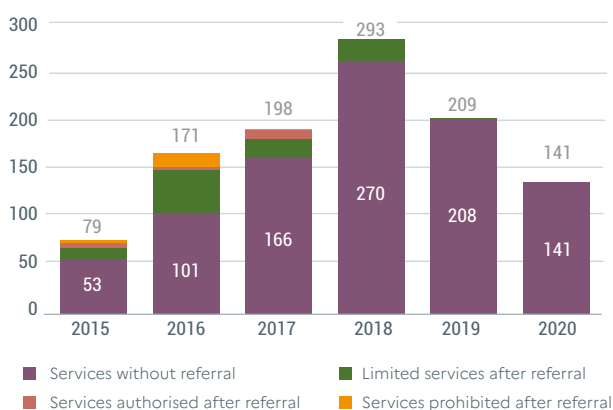
The operation of LCS on these routes is subject to a prior statement by the operator and, at the request of a Public Transport Authority (PTA) and subject to the Authority's assent, may be rejected or restricted.

In 2020, 141 notifications of LCS on routes of 100 km or less were made to the Authority, compared to 209 the previous year. The decrease in the number of notifications compared to previous years (minus 51.9% compared to 2018) can be explained in part by the near total cessation of activity in the sector, following the health crisis linked to the Covid-19 epidemic. These notifications concerned 83 routes, including 15 new ones. None of these notifications were referred by a PTA.

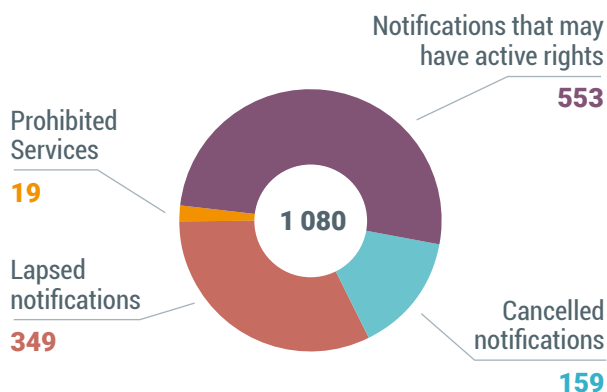


By 31 December 2020, the Authority had published 1,080 notifications in total. As a result of cancelled, lapsed or rejected notifications, only 553 are likely to have active marketing rights at that date, compared with 554 the previous year and 537 in 2018.

Overview of notifications and referrals between 2015 and 2020



The status of notifications on 31 December 2020



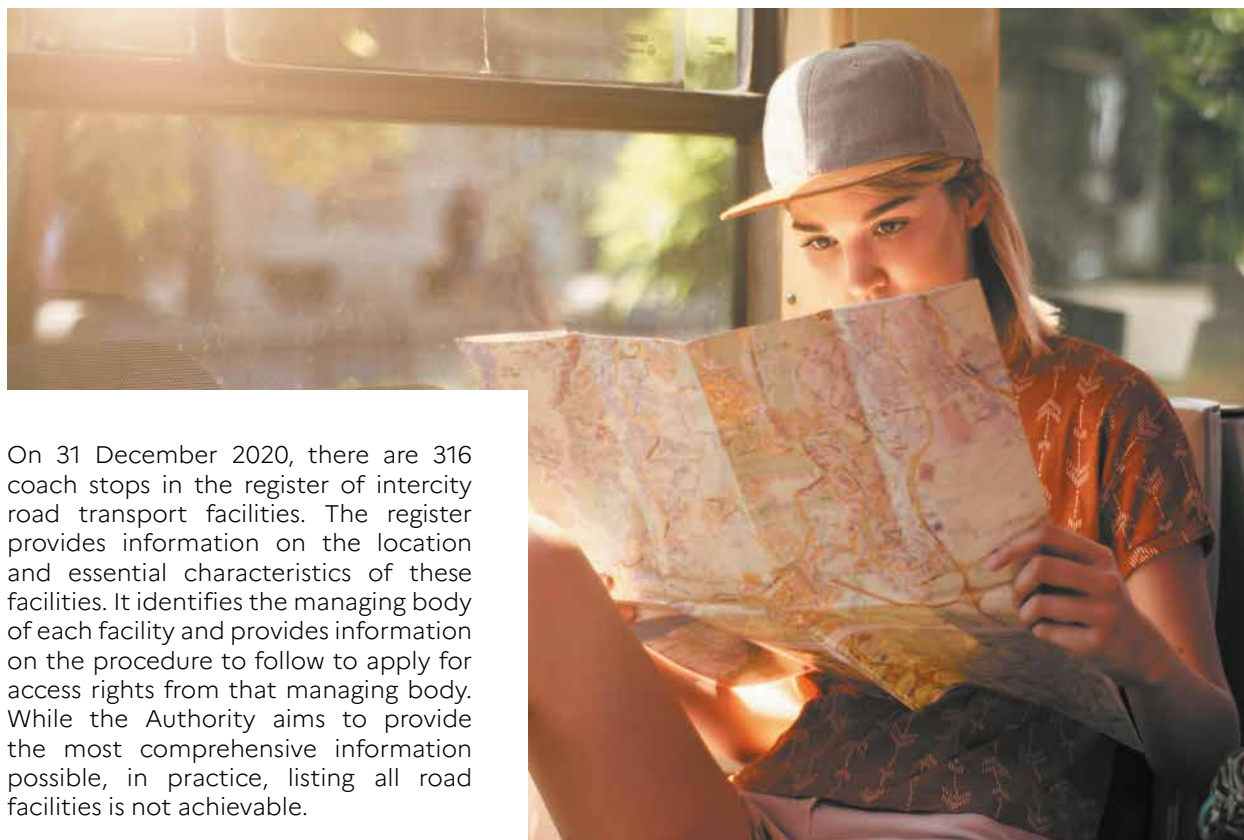
Regulation of bus and coach terminals



The register: the Authority's monitoring strategy is adapted to improve the regulation of the intercity coach market

To contribute to effective competition on the market of LCS for the benefit of transport service users, the Authority has maintained, since 2016, a public register of bus and coach terminals and other coach stops which informs transport operators on the road transport infrastructures.

To improve its knowledge of the coach market, the Authority drew up, in 2020, an overview of intercity road transport facilities in France. This research enabled the regulator to adapt its control strategy and refocus its action on facilities of higher interest for LCS operators.

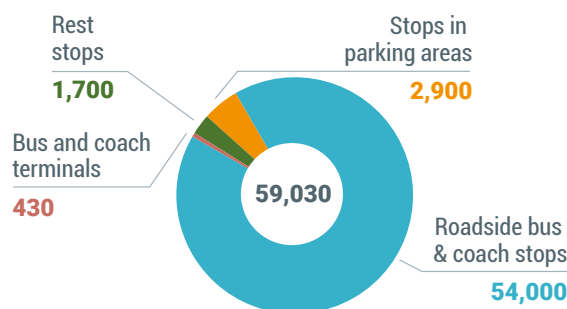


On 31 December 2020, there are 316 coach stops in the register of intercity road transport facilities. The register provides information on the location and essential characteristics of these facilities. It identifies the managing body of each facility and provides information on the procedure to follow to apply for access rights from that managing body. While the Authority aims to provide the most comprehensive information possible, in practice, listing all road facilities is not achievable.

Indeed, there are over 59,000 intercity road transport facilities in France. Nearly 54,000 of these are simple roadside bus and coach stops offering very few services. The remaining 8.5% are more complex facilities, such as rest stops, stops in parking areas, and bus and coach terminals.

In fact, most of these facilities are only used by public services operators. While less than 1% of the facilities are served by LCSs, most of their movements are done within more complex facilities, notably bus and coach terminals located within a large urban area.

Intercity road transport facilities in France



Regulation of bus and coach terminals

In this context, to focus its action on the registration of road transport facilities of high interest for LCS operators,

the Authority adopted an operational monitoring strategy based on three criteria:



The type of road transport facility



The interest shown by LCSs



The geographical location

The Authority's action concentrates on:

More complex facilities, in particular bus & coach terminals.

Road transport facilities served by LCSs.

Facilities within large urban areas.



In 2020, armed with a more detailed knowledge of the sector, the Authority adopted two decisions applicable to road transport facilities: Decision No. 2020-068 of 15 October 2020 on the register of coach terminals and other road transport facilities, which repeals Decision No. 2017-125, and Decision No. 2020-007 of 23 January 2020 on the transmission of information by the managing body of these facilities, which in turn repeals Decision No. 2017-126 of 4 December 2017.

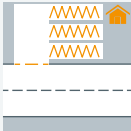


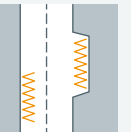








By its Decision No. 2020-068 of 15 October 2020, the Authority changes the scope of facilities to be included in the register, to free managing bodies from the obligation to include in the register road stops exclusively intended for urban or school transportation services. Decision No. 2020-007 adapts the practical arrangements for collecting data to the constraints experienced by managing bodies.

ZOOMING IN

on Decision No. 2020-068 of 15 October 2020
regarding the register

Facilities covered by Article L. 3114-1 of the French Transport Code are subject to a declaration in the register, except for facilities consisting of one or more stops located on the carriageway or in a crossing area and intended solely for urban or school transport services in application of a police traffic and parking order.

Scope of the facilities requiring notification in the register

	Coach Station	Stop in parking area	Rest stop	Road stop
				
Facilities for urban services or school transportation in application of a police traffic and parking order				
Facilities that have not been subject to a police traffic and parking order				

ZOOMING IN

on Decision No. 2020-007 of 23 January 2020
on the transmission of information by road
transport facilities managing bodies

The managing bodies of facilities listed in the register must henceforth transmit, before the 1st of September of each year, financial and attendance information on the facility notified for year N-1, as well as, if applicable, information on all investments initiated at that facility between 1 January of year N-8 and 31 December of year N-2.

Controlling bus and coach terminal access rules

The Authority is tasked with monitoring the access rules that managing bodies of regulated coach terminals are required to lay down.

As part of this task, the Authority ensures that these rules are objective, transparent and non-discriminatory. The requirements applicable to implement these principles when drawing up access rules were specified by the Authority's Decision No. 2017-116 of 4 October 2017.

Apart from Mont-Saint-Michel (see below), the managing bodies of the 92 regulated facilities identified by the Authority have complied with the obligation to define access rules. 9 of these sets of rules were notified to

the Authority during 2020. At the end of 2020, the status of this obligation to define access rules remained undetermined for 7 other facilities newly entered in the register.

In addition, the Authority is continuing its discussions with the managing bodies of 25 facilities to bring their access rules into line with the Transport Code and with Decision No. 2017-116 of 4 October 2017. The most common issues encountered concern congestion management at the facility and pricing schemes. Subject to potential further analysis by the Authority, the 66 other regulated facilities have compliant access rules.



Number of facilities at 31/12/Year N	2020	2019
... regulated, with compliant access rules	66	54
... regulated, with access rules under discussion	25	36
TOTAL regulated, with access rules	91	90
... regulated, without access rules	1	2
... undetermined status vis-à-vis regulations (recently listed in the register)	7	0

FlixBus' appeal against the managing body of the Mont-Saint-Michel parking facilities

On 28 August 2019, FlixBus France referred to the Authority for the settlement of a dispute concerning access tariffs into carpark P7 of the Mont-Saint-Michel vehicle parking area. FlixBus France requested that Transdev Mont-Saint-Michel, the company operating the facility, be enjoined to set the access fee at €5 including tax.

The Authority used the appeal by FlixBus against the operator of the Mont-Saint-Michel parking facilities to clarify its doctrine.

When FlixBus submitted its request for the settlement of a dispute, the price to access the Mont-Saint-Michel parking facilities for a period of less than 30 minutes was €23 including tax during the low season, and €32 including tax during the high season.

In its Decision No. 2020-042 of 16 July 2020, the Authority enjoined Transdev Mont-Saint-Michel to set the price to access the Mont-Saint-Michel parking facilities for a period of less than 30 minutes at €11.44 including tax.

The investigation into this request for dispute settlement led the Authority into answering several legal, economic and financial questions, as well as into rolling out a statistical analysis methodology to identify, which factors best explain price variations between coach terminal characteristics, such as presence of staff on site, size of the facility, access to a waiting room or toilets (see details on next page).

FlixBus' request for a dispute settlement was motivated by a lack of objectivity in setting access prices.

Transdev Mont-Saint-Michel manages both the "Caserne" parking area and the shuttle bus system to Mont-Saint-Michel. The P7 parking area, designated to accommodate coaches, has been used as a terminal area by LCS since March 2016.

As the ticket for the shuttle service between the car park and Mont-Saint-Michel is covered by the access price to the P7 car park area, it has appeared that this pricing scheme was not objective. Indeed, pursuant to Article L. 3114-6 of the Transport Code and Article 22 of the Authority's Decision No. 2017-116, a pricing scheme that covers charges other than those exclusively related to the operation and maintenance of the infrastructure and equipment of the road transport facility is in breach of the objectivity principle.

Implementing the decision is a first step towards compliance.

Transdev Mont-Saint-Michel complied with the Authority's decision within the 15-day period set by the Authority. To reach compliance with the Transport Code and the Authority's regulatory decisions, the managing body will draw up access rules for the facility as soon as possible.

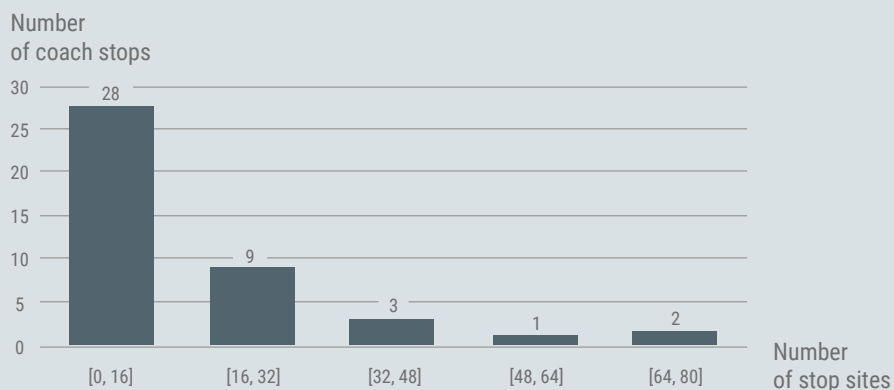


Setting the access price to the Mont-Saint-Michel parking facilities

The price set by the Authority is based on an econometric analysis of a subset made up of 43 coach stops.

Several models were tested to determine what features are the prevailing factors governing the access price.

Size of the 43 coach stops making up the sample



Price variation depending on size of coach stop (€ including tax/contact)

Small size coach stops
(< 50 spaces)



€4.82/contact

Large size coach stops
(> 50 spaces)



€11.44/touch&go

Price variation depending on the quality of service⁵ at the coach stop (€ including tax/touch&go)

Coach stop with a low quality
of service level



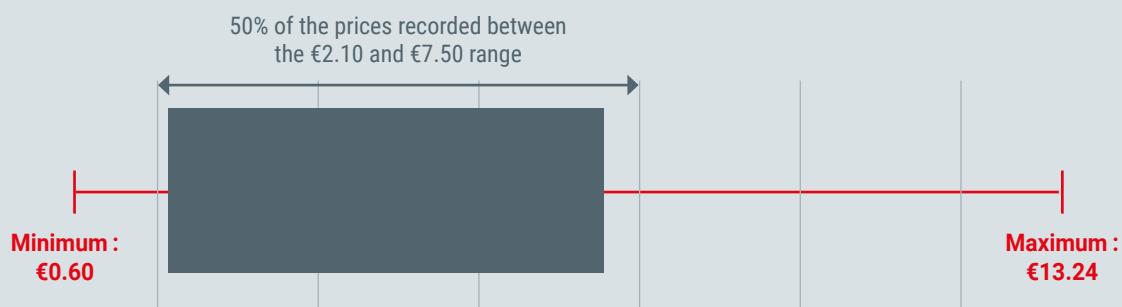
€3.73/touch&go

Coach stop with a high quality
of service level



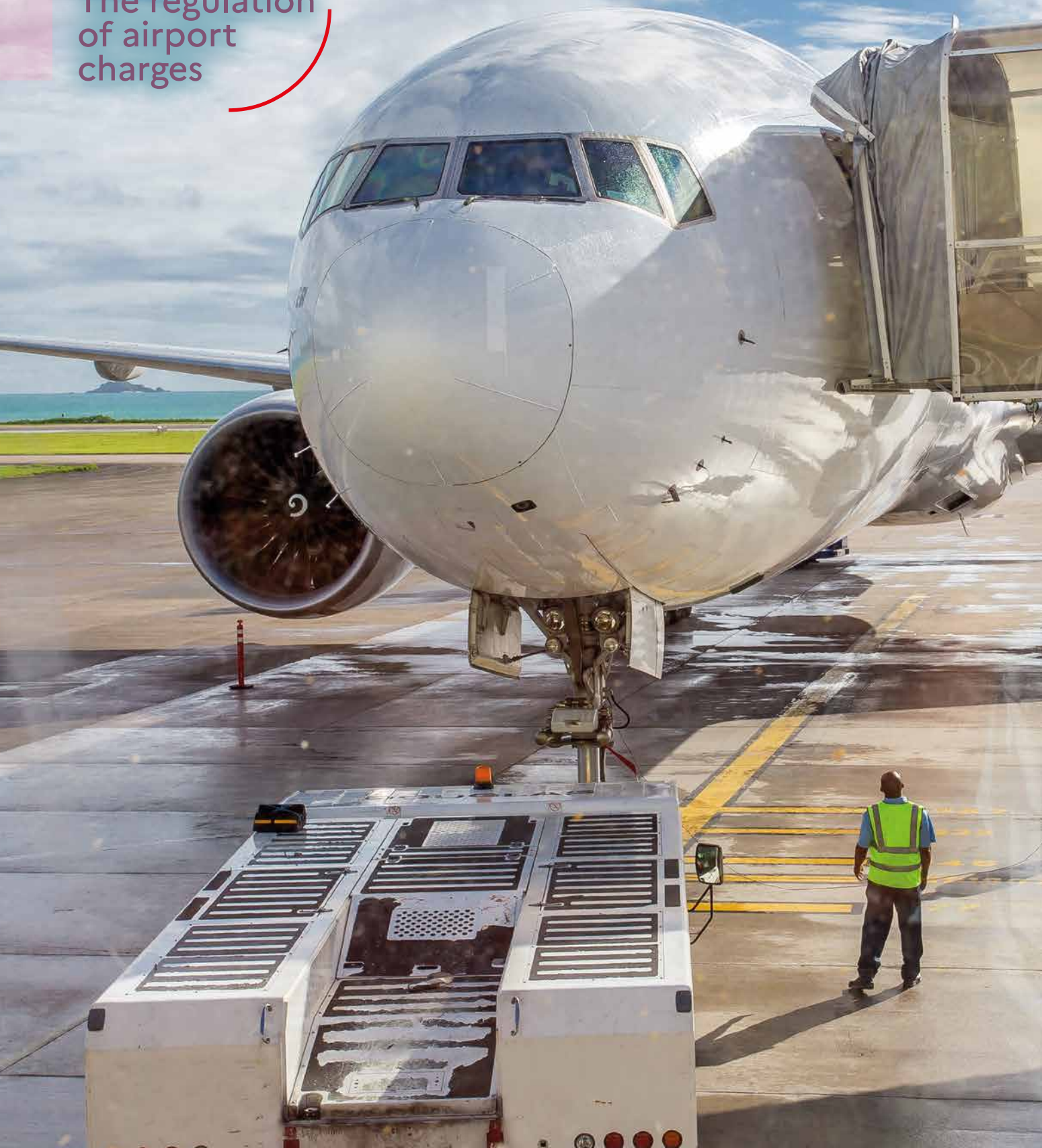
€6.19/touch&go

Range of rates recorded (€/touch&go)



⁵ The quality of service is high if the coach stop has (a) staff on site, (b) passenger toilets and (c) a passenger waiting room or driver relaxation room.

The regulation of airport charges





The regulation of airport charges



To carry out its new missions, the Authority has chosen to engage in a consultative process with stakeholders to develop a robust and agreed methodological framework.

The Authority has competency over (a) aerodromes where annual traffic exceeds five million passengers in any of the previous five calendar years and (b) aerodrome systems where one aerodrome has exceeded this threshold during the same period. The following aerodromes thus fall within ART's scope for 2020: Basel-Mulhouse; Bordeaux-Mérignac; Lyon-Saint-Exupéry and Lyon-Bron; Marseille-Provence; Nantes-Atlantique; Nice-Côte d'Azur and Cannes-Mandelieu; Paris-Charles-de-Gaulle, Paris-Orly and Paris-Le Bourget; Toulouse-Blagnac.

The air transport sector has been directly and severely affected by the health crisis. In 2020, passenger traffic plummeted by over 65% compared to 2019. It is within this unprecedented context, that the Authority is exercising its first year of regulatory operations in the airport sector. To carry out the new missions entrusted to it as effectively as possible, the Authority has chosen to engage in a consultative process with the stakeholders to develop a robust and agreed methodological framework. In the context of these different approaches and exchanges, the Authority has been able to start developing its doctrine on the regulation of the airport sector and its specificities.

Facts
& figures
on year 1
of regulatory
operations

Competent since 1 October 2019,
the Authority received so far:

10

applications for approval
of airport charges

1

request for a scoping opinion
on the level of WACC*
to be adopted in the context
of an economic regulation
contract (ERC)

3

complaints from users or user
representatives as part
of the Authority's power
to pursue, and if needed,
condemn identified breaches



* WACC: weighted average cost of capital

In 2020:

11

opinions and decisions rendered
by the Authority



2

public consultations conducted
by the Authority

45

hearings held
by the Authority

The stabilisation of the Authority's competence framework in a context marked by an unprecedented fall in traffic

In 2020, the Authority carried out its missions in a context marked by an unprecedented fall in traffic that has shaken the entire sector.



In response to the health crisis caused by the Covid-19 pandemic, many States around the world put their population under strict lockdown and decided to close their borders. The air transport sector was directly and severely impacted.

According to the International Air Transport Association (IATA)¹, passenger traffic decreased by 65.9% over the whole of 2020 compared to 2019. Europe was particularly impacted, with a 69.9% year-on-year drop in traffic and an 82.2% drop in December 2020 alone, due to the second wave of the pandemic. According to Eurocontrol projections published in November 2020, air transport worldwide is not expected to return to pre-crisis traffic levels until at least 2024. This «high case» scenario is based on the availability of a vaccine for all passengers by the summer of 2021². In line with traffic declines observed at global and European levels, aerodromes under the Authority's competence have thus seen their traffic levels plummet by an average of nearly 69% between 2019 and 2020.

As a result of this significant drop in traffic at French airports, the Authority would have lost its competence as of 1 January 2021 had there not been a change to the legal framework. It would have lost all the airports it was regulating in 2020 except those of Aéroports de Paris. However, the Authority was able to benefit from a welcome stabilisation of its scope of competence.

Article 10 of Act No. 2020-1379 of 14 November 2020, authorising the extension of the national public health emergency and introducing various health crisis management measures, authorised the French Government to legislate by order and adapt the Authority's scope of competence, within the framework of its missions as regulator of airport charges, taking account the effects on air traffic, of the health crisis linked to the Covid-19 pandemic. While the Authority was competent to regulate airports charges or airport systems charges where traffic in the last calendar year exceeded five million passengers, Order 2020-1602 of 16 December 2020 on the regulator of airport charges, granted the Authority competence for airports or airport systems where annual traffic exceeded five million passengers in one of the five previous calendar years. This introduced stability in the regulation of the main French airports despite the temporary drop in traffic.



¹ IATA, Press release of 3 February 2021.

² Eurocontrol, Five-year forecast, 4 November 2020.

A stabilisation of the Authority's competence framework in a context marked by an unprecedented fall in traffic

As part of its mission to regulate airport charges, the Authority (a) approves all annual rates of airport charges submitted to it³, (b) renders a binding opinion on draft economic regulation contracts (ERCs) agreed between aerodrome managing bodies and the State⁴ and (c) may, at the request of the

Minister in charge of civil aviation, issue a reasoned opinion on the weighted average cost of capital (WACC) to be taken into account in a draft ERC⁵. If no approval of charges has been granted for over 24 months⁶, the Authority also has the power to set the charges and their modulations.



When the Authority approves charges and their modulations, it ensures⁷:

- That the user consultation procedure has been followed.
- That charges and their modulations comply with all general rules applicable to charges, that they are non-discriminatory and that their evolution (increase), compared to charges in force, is moderate.
- That there is full compliance with the conditions for the increase of charges as provided for in the contract if an economic regulation contract (ERC) has been concluded.

• In the absence of any economic regulation contract:

- That the aerodrome managing body receives a fair return on the capital invested within the perimeter of activities under regulation, assessed versus the WACC calculated for this same perimeter.
- That the overall revenue from charges does not exceed the cost of services rendered.

The Authority has investigative powers to carry out these missions⁸ as well as powers to impose sanctions in the event a non-compliance is identified⁹.

³ Article L. 6327-1 of the Transport Code.

⁴ Article L. 6327-3 of the Transport Code. The increase of charges over five years is set in the economic regulation contracts.

⁵ Article L. 6327-3 of the Transport Code.

⁶ Article R. 224-3-4 of the Civil Aviation Code.

⁷ Article L. 6327-2 of the Transport Code.

⁸ Article L. 1264-2 of the Transport Code.

⁹ Articles L. 1264-7 et seq. of the Transport Code.

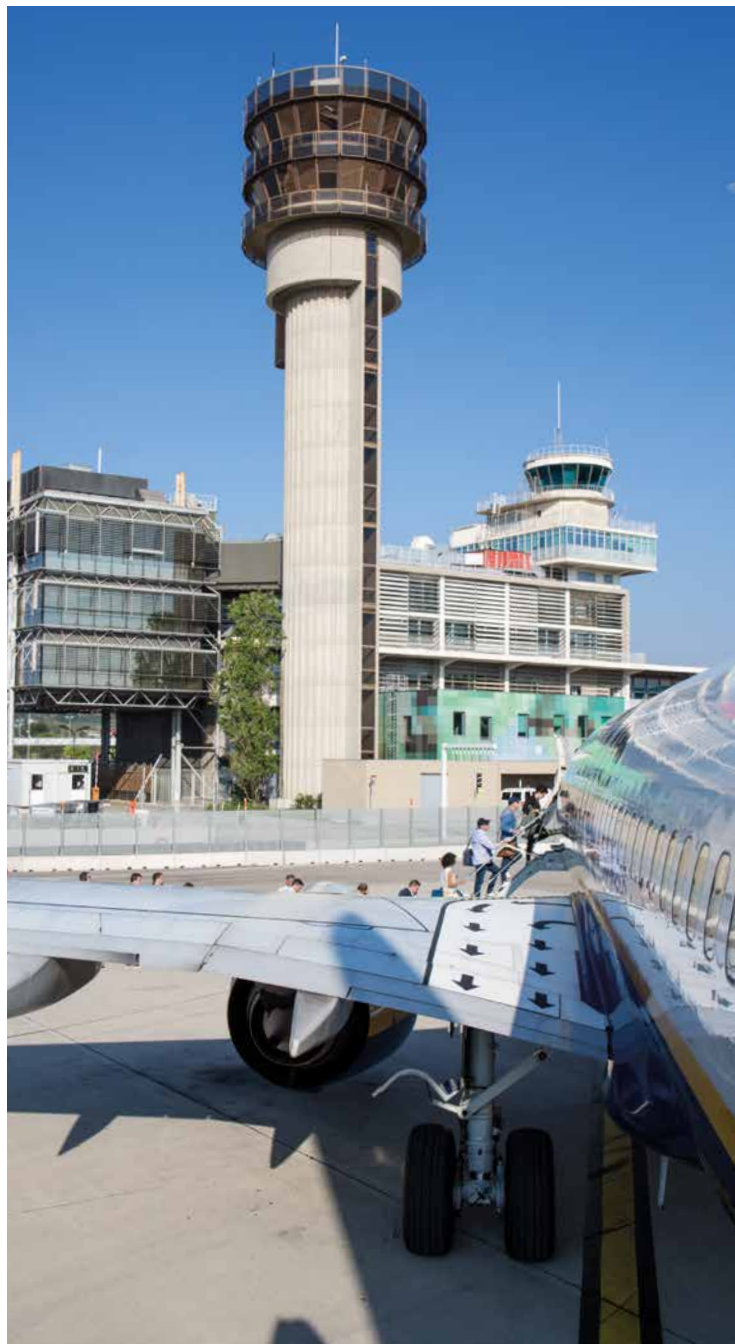
Two major issues: a fair return on capital invested and a tariff moderation

A fair return on capital and a tariff moderation have emerged as major issues in the regulation of charging schemes for airport charges.



Determining the weighted average cost of capital (WACC) is a complex exercise. In the work it has carried out to develop a robust and agreed methodological framework, the Authority has implemented a consultative approach to carry out as fully as possible the new airport sector missions entrusted to it, remaining in line with the value it affords to dialogue.

Two major issues: a fair return on capital invested and a tariff moderation



In this context, the Authority carried out an initial public consultation in November 2019. It also commissioned a consultancy firm whose work was carried out in consultation with the industry's various stakeholders, then subsequently published on the Authority's website. These consultations were carried out to get a better understanding of the industry's specific expectations, to reach a consensus wherever possible and barring that, to establish degrees of balance.

Based on Article L. 6327-3 of the Transport Code, the Minister in charge of civil aviation requested in December 2019 a reasoned opinion from the Authority on the weighted average cost of capital to be factored into the draft economic regulation contract of Aéroports de Paris (ADP) for the period covering 2021 to 2025 (namely, "ERC 4"). In this context and pursuant to Article R. 224-7 of the Civil Aviation Code, it was up to ART to indicate what WACC rate should be retained, as of the date, within the perimeter of regulated activities, with a minimum and a maximum value. In its Opinion No. 2020-017, after deliberation by its Board on 17 February 2020, the Authority considered that, in view of the market conditions existing at the time, the WACC to be considered for the preparation of ERC 4 should be between a minimum value of 2.0% and a maximum value of 4.1%.

In the specific case of ADP, the Authority did not, in the end, have to give its opinion on the WACC level in the context of a binding opinion on a draft ERC, due to ERC 4 being abandoned. In a press release dated 26 May 2020, ADP stated having noted that *"the public consultation document for ERC 4 had lapsed"*. ADP had thus decided *"not to pursue further the procedure initiated on 2 April 2019, of drawing up the contract"*.

At any rate, in publishing its first scoping opinion, the Authority wanted to externalise a document that would be educational and drawn up based on a dialogue with the stakeholders. The work carried out to prepare this scoping opinion was largely based on the consensus reached during the first public consultation and the hearings conducted as part of the investigation (ADP, airlines, and their representatives). It therefore seemed important to the Authority to explain the decisions it had to make when no consensus developed, particularly concerning the choice of estimates for certain parameters.

To apply this approach to the decisions to approve the annual charging schemes and to study the possible effects of the health crisis on the selected methodology, the Authority conducted a second public consultation between July and September 2020. It appeared that the Authority's methodological choices, which consisted in establishing a calculation of the WACC based on criteria of stability, transparency and fairness, still seem relevant when approving annual charging schemes in times of crisis.



Two major issues: a fair return on capital invested and a tariff moderation

In the context of approving charges, the issue of tariff moderation has become crucial in 2020 in view of the health crisis and the plummeting traffic and considering airport fixed cost structures.

Indeed, in view of its missions¹¹, the Authority must ensure that any increase to the current charging schemes remains moderate. In its decisions, the Authority has had to point out the following:

- As no legal text currently in force defines what tariff moderation is, it is assessed on a case-by-case basis, considering the specific circumstances of each case for which the Authority is called upon to render a decision. The elements to be considered include projects planned for implementation at the platform; the evolution of the level of service provided to users; the till system as defined by Order; and users opinion.
- The decisions passed by the administrative judge on airport charges targeted increases of between 0 and 5%, without these decisions making it possible to determine clearly which level of increase could systematically be considered as fair. However, the Council of State, in its Decision¹² of 31 December 2019, specified that *"the sole purpose (of the fair pricing rule) is to protect users from excessive charging scheme increases."*



It is with this view and taking into account the specificities of each airport that the Authority opposed the approval of the charging scheme proposals devised by the Côte d'Azur airports¹³, the Lyon airports¹⁴ and the Marseille-Provence airport¹⁵ in 2020 and approved the charging scheme proposals devised by the Toulouse-Blagnac airport¹⁶, by the Paris airports¹⁷ and the second round of charging scheme proposals devised by the Côte d'Azur airports¹⁸.

“In the context of approving charges, the issue of fair pricing has become crucial in 2020 in view of the health crisis and the plummeting traffic, and considering airport fixed cost structures.”

¹¹ Article L. 6327-2 of the Transport Code.

¹² Conseil d'État, 31 December 2019, SCARA and others, req. n° 424088. (SCARA Syndicat des compagnies aériennes autonomes, i.e., Union of French Independent Airlines)

¹³ Decision No. 2020-045 of 30 July 2020.

¹⁴ Decision No 2020-085 of 22 December 2020 and Decision No. 2021-010 of 11 February 2021.

¹⁵ Decision No 2020-087 of 28 December 2020.

¹⁶ Decision No 2020-063 of 29 September 2020.

¹⁷ Decision No. 2020-083 of 17 December 2020.

¹⁸ Decision No 2020-060 of 17 September 2020.

The Authority uses the decisions adopted in 2020 to highlight certain guiding principles

In 2020, the Authority used the decisions it adopted that year to highlight certain guiding principles and remind of: (a) the importance played by user consultations and the need for aerodrome managing bodies to take these consultations into account in their charging scheme proposals; (b) the inseparability of charging schemes and modulations, which are enforceable under the conditions laid down by the French Civil Aviation Code; and (c) the need to justify any differentiation in charges by an analysis of infrastructure use costs.



The Authority uses the decisions adopted in 2020 to highlight certain guiding principles

Firstly, the Authority highlighted the importance user consultations, and the need for aerodrome managing bodies to consider in their charging scheme proposals submitted for approval, the comments made during these user consultations²⁰.

The Authority has also had to ensure that all users have clear and sufficient information on the purpose of the consultation and its procedures to enable them to usefully communicate their opinion. ART has therefore been particularly vigilant in ensuring that users have at least the information listed in the regulations²¹, to enable them to give their opinion.

Then, in its decision²² concerning the formal notice issued to **Aéroports de la Côte d'Azur**, the Authority has highlighted that charges and their variations are inseparable and become enforceable under the conditions laid down by the **Civil Aviation Code**²³; and therefore, charge variations cannot be modified, suspended or withdrawn in the absence of any approval by the Authority.

In addition, the Authority has been able to point out that when a charge differentiation is proposed by an aerodrome managing body in the pricing schedule it submits to the Authority for approval, this differentiation has to be justified by analyses of the infrastructure use costs²⁴.

In its decisions²⁵, the Authority also specified that the pricing of groundhandling activities, other than those qualifying as centralised infrastructure, can neither be included in airport charges, nor in the perimeter of regulated activities. Indeed, these groundhandling services were liberalised in Europe following the adoption of Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at European Community airports. Charges for these services are therefore freely established. Controlling the amount set for these fees therefore falls outside the Authority's scope.



²⁰ See Decisions No. 2020-018 of 27 February 2020 and No. 2020-083 of 17 December 2020.

²¹ Article R. 224-3, IV, of the Civil Aviation Code and Order of 16 January 2012.

²² Decision No. 2020-032 of 28 May 2020.

²³ Article R. 224-3-4 of the Civil Aviation Code.

²⁴ For further information, see differences in charges proposed by Aéroports de Paris (Decision No. 2020-083 of 17 December 2020), Aéroports de Lyon (Decision No. 2020-085 of 22 December 2020) and Marseille-Provence airport (Decision No. 2020-087 of 28 December 2020) for fees per passenger depending on flight destinations; also see differences in charges proposed by Aéroports de Lyon and Marseille-Provence airport on fees per passenger for the use of a terminal with a differentiated service offering.

²⁵ See Decisions No. 2020-018 of 27 February 2020 and No. 2020-085 of 22 December 2020.

Finally, the Authority highlighted that, in all decisions relating to charges with variations, these variations must, in accordance with regulatory provisions²⁶, be set under objective, transparent and non-discriminatory conditions, and that their range and where applicable, their duration and applicability, must be proportionate to the general interest objective by which they are governed. In the particular case of the proposal submitted by the Marseille-Provence airport concerning an additional variation to the already existing acoustic variation, it could not be accepted insofar as it was amending the acoustic groups defined by decree²⁷ and that such an amendment falls within the remit of the authority that issued the initial decree, namely, the Minister in charge of civil aviation. Although the Transport Regulatory Authority has noted that many players in the industry

share the view that acoustic variations established in compliance with the Order of 24 January 1956, have now lost their incentive nature in the absence of any update to said Order, the Authority's investigation has shown, however, that the Directorate-General for Civil Aviation has begun work on recasting the acoustic groups provided for in said Order. The Authority can only welcome this initiative, which should establish the incentive nature of acoustic variations as well as their consistent enforcement of these groups at all aerodromes.



²⁶ Article R.224-2-2 of the Civil Aviation Code.

²⁷ Order of 24 January 1956 on the conditions for establishing and collecting landing charges and charges for the use of lighting equipment, at public aerodromes.

ZOOMING IN

on a welcome clarification of the Authority's role in the allocation of assets, income and expenses, which has yet to be specified by legislation



In a Decision of 28 January 2021, SCARA and others (SCARA Syndicat des compagnies aériennes autonomes, which is the Union of French Independent Airlines), the Council of State confirmed the Authority's competence to intervene in the determination of the rules for the allocation of assets, income and expenses applicable to the regulated and non-regulated perimeters, having considered that by entrusting the Minister with *"a power to define the rules for the allocation of assets, income and expenses"* between the regulated and non-regulated perimeters, these provisions of Article R. 224-3-1 of the French Civil Aviation Code *"have restricted the ability of the Regulatory Authority to assess independently the relevance of the level of the charges in question, thus running counter to the objectives of European Directive 2009/12/EC on airport charges"*.

The Authority considers that the powers to intervene in the determination of the rules for the allocation of assets, income, and expenses applicable to the regulated and non-regulated perimeters, as recognised by the Council of State, should be enshrined in law, as is the case for the other sectors that ART regulates. Where it is enshrined in the law, it would afford the Authority the necessary visibility and clarity needed by the various stakeholders. To this end, the Authority wishes for a framework that would include a legislative provision which, via a decision published in the Official Journal of the French Republic, would enable the Authority to determine both the principles and the implementation procedures for the rules governing the allocation of assets, income, and expenses within the regulated perimeter and between the activities within the given perimeter.

In addition, following the example of what is provided for in the case of the other sectors it regulates, and in order to enable it to carry out its missions more effectively, the Authority considers it advisable that legislative provisions give it (a) the power to collect data regularly from the airports falling within the scope of its remit; as well as (b) a mission to monitor the economic and financial situation of these airports; and (c) to inform all sector players.

ZOOMING IN

on investigation deadlines that are too short and must evolve

The deadlines set by regulations for the Authority to issue its opinions and decisions are very tight and seem barely compatible with the implementation of a consultation process; such tight deadlines also have an impact on the various stakeholders (users and aerodrome managing bodies) in terms of the time needed to convene hearings and respond to measures issued under the investigation process. For example, the Authority has only one month to approve charging schemes for airport charges²⁸, two months to render a binding opinion on draft ERCs (this deadline may "be extended by two months in exceptional and duly justified cases")²⁹ and two months to give its scoping opinion on the WACC³⁰. In comparison, the Authority has three months in the road sector, to give its opinion on draft motorway concession contracts or amendments to existing contracts. For the rail sector, it has four months to render a binding opinion on access charges to passenger rail stations.



It appears that such tight deadlines do not stem from the provisions of European Directive 2009/12/EC on airport charges, which provides for an examination period of four months by the competent authority that may be "extended by two months in exceptional and duly justified cases".

Consequently, the Authority has submitted constructive proposals to the Directorate-General for Civil Aviation (DGCA) so that the timespan granted for an investigation may be extended, without impacting the overall duration of the procedures. These proposals intend to extend from one to two months the deadline for the Authority to approve the annual charging schemes for airport charges, and from two to four months the deadline for giving a binding opinion on a draft ERC submitted to it (this period may, "be extended by two months in exceptional and duly justified cases"). These amendments would make it possible to carry out investigative work more serenely and would lighten the burden of the different stakeholders (users and aerodrome managing bodies). Indeed, although the Authority and airport managing bodies have developed procedures enabling them, whenever possible, to mitigate these constraints, — referrals done on-line and a constructive dialogue to anticipate the transmission of certain documents — these simplification and optimisation practices should be enshrined in current legal texts.

²⁸ Article R. 224-3-4 of the Civil Aviation Code.

²⁹ Article R. 224-8 of the Civil Aviation Code.

³⁰ Article R. 224-7 of the Civil Aviation Code.

The Thessaloniki Forum: a forum for exchange between European Airport Charges Regulators to which ART contributes

During 2020, the Authority was also one of the contributors to the two recommendations drawn up by the Thessaloniki Forum for decision-makers in the airport sector.



This forum is a place for exchange between European airport supervisory authorities facing similar or comparable situations, thus making it possible to compare views and issues at a supranational scale.

The first working paper produced in 2020 is on "Airport charges and environmental issues and considerations". The Forum focused on variations of airport charges to meet specific environmental objectives, such as the reduction of CO₂ emissions, NOx emissions and noise-related nuisance. In particular, the Forum made recommendations to ensure that variations of airport charges are based on relevant, objective, and transparent criteria.

The second working paper produced in 2020 concerns "Airport till structure and cost allocations for airport activities".

In this paper, the Forum presents airport till structures and their main characteristics, that could potentially be implemented. It then makes suggestions of good practices to be applied to cost allocation and, on this matter, discusses different cost allocation methodologies and their limitations. The Forum also recommends that Member States should allow European Airport Supervisory Authorities to contribute to the determination of airport till structures, as this is an important feature of the economic regulatory framework in place for airports.

The Authority will continue to be involved in these exchanges, and in particular from 2021 onwards as the Lead Authority for the development of one of the two working papers to be drafted.



A photograph of several European Union flags waving in the wind. The flags are blue with twelve yellow stars arranged in a circle. They are positioned in front of a modern building with large glass windows and a curved facade. The sky is blue with some clouds, and the sun is visible, creating a bright, slightly hazy atmosphere. A red curved line is drawn under the text.

Acting on a
European level



Acting on a European level

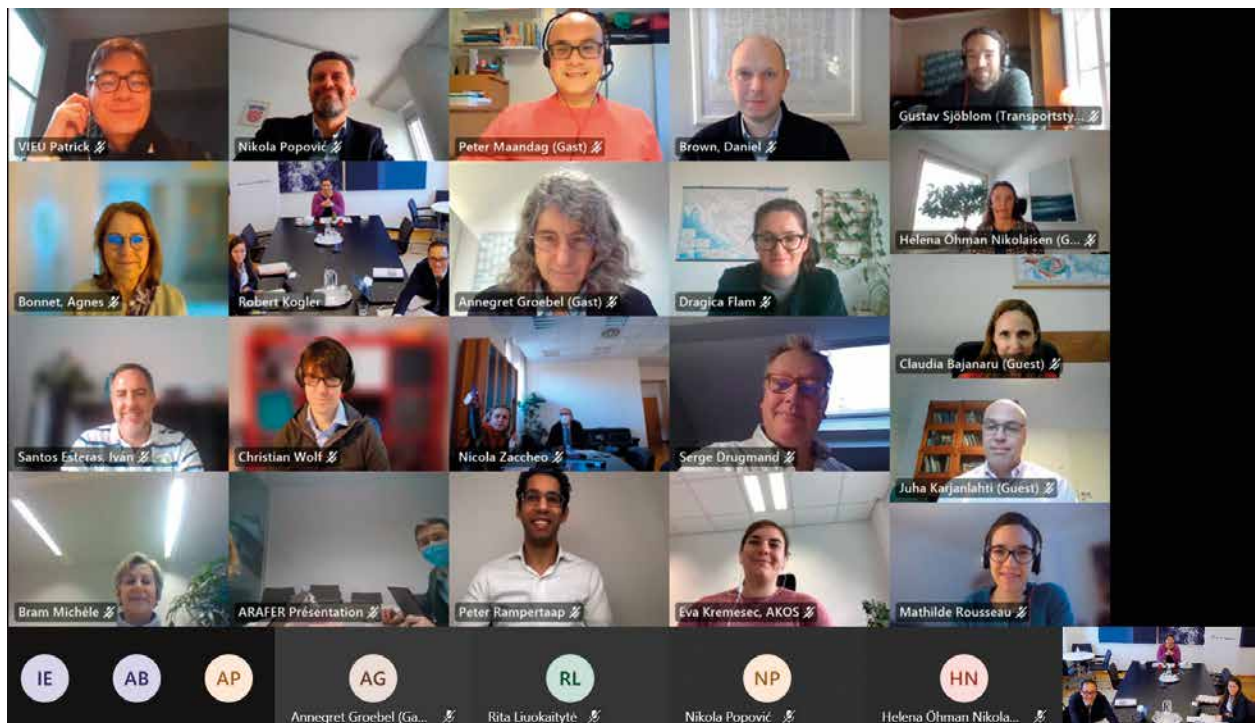
On a European level, the health crisis has led regulatory actors to scale up their coordinated approach to respond to the challenges affecting the various transport sectors.

Having become the European multimodal transport regulator with the largest number of sectors to regulate in the transport domain, the Authority has taken on an important role to make its voice heard in European multilateral bodies, in a number of debates on the issue of regulation.

Within this context, and for example in the rail sector, ART has engaged actively in the work of IRG-Rail, which resulted in a position paper on the recovery from the Covid-19 health crisis, and in a strategy document for the 2021-2024 period published by the Independent Regulators' Group - Rail. The main objective is to promote resilient, open, competitive, and sustainable mobility on a European scale.

Dialogue and coordination

In 2020, the Authority engaged even more widely in European work, for example in the Independent Regulators' Group-Rail (IRG-Rail) and in the European Network of Railway Regulatory Bodies (ENRRB) for railway industry matters, and in the Thessaloniki Forum for airport industry matters.



Actively engaged in IRG-Rail

In 2020, the Authority engaged fully in the work of IRG-Rail, a European group bringing together 31 independent rail regulatory bodies. The aim of this network is to strengthen exchanges between independent railway regulators, share best practices and develop common approaches to ensure consistent regulation across European Union countries. The group maintains a regular dialogue with all rail sector stakeholders and with the European institutions. It also gives voice to the regulators' point of view on all major issues in the European rail sector.

European rail regulators contribute to the recovery from the Covid-19 crisis

The health crisis resulting from the Covid-19 pandemic has prompted IRG-Rail members to publish a joint statement.

Adopted at the Plenary Assembly on 19 May 2020, this statement recalls that during the health crisis resulting from the Covid-19 pandemic, railways have continued to transport both essential goods and passengers, but that the sector has been severely

affected. The group of independent regulators indicated that recovery would require unprecedented efforts. In view of this situation, the IRG-Rail affirmed its willingness to support these efforts, and commitment to regulatory cooperation across-borders, and to ensure coordination and consistency in all administrative processes while making clear that unilateral restrictions on access to rail markets should, by their very nature, only be temporary.

As regulators, the IRG-Rail members also expressed in this joint statement, their willingness to continue monitoring markets and upholding the principles of proportionality and non-discrimination, balancing emergency measures with the need to safeguard fair competition in rail markets and non-discriminatory competition conditions between the various transport modes.

Finally, the position paper underlined the important role played by rail services, seen as a key element for a sustainable recovery. The Independent Regulators Group members affirmed their commitment to continue promoting clear frameworks for investments in rail infrastructure that meet Europe's economic and environmental objectives.



The IRG-Rail Market Monitoring Report: an key contribution to enlighten the European decision makers

In March 2020, IRG-Rail published its Eighth Annual Market Monitoring Report. Coordinated by the Authority and AMT — its Portuguese counterpart within the IRG-Rail Market Monitoring Working Group — the content of this report is based on statistical indicators provided and harmonised within the same specified perimeter, by 31 European regulators.

Illustrated by numerous infographics, the Monitoring Report provides an exact and educational picture of the activity of rail freight and passenger markets at European level. As it does each year, this Report enhances transparency on the markets, allows sharing best practices, and provides comparative data for each country. It includes data on the characteristics and performance of rail markets in Europe.

This report provides an updated overview for 2018 of the rail networks in Europe through data on global rail traffic; the freight and passenger markets; and the comparison of track access charges paid by railway undertakings for the minimum access package. This data has been collected annually since 2013 and each year, the working group includes new indicators to enrich the database.

This Eighth Report also focuses on three areas, thus providing additional detailed investigations on the competitive situation of freight and passenger rail markets in Europe through:



- an analysis of the level of competition in the European freight and passenger rail markets. For this, the Report builds on a description and on market concentration indicators;
- a survey for which each IRG-Rail country identifies the main barriers to entry that apply to their country for both PSO and non-PSO passenger markets and for the freight rail market; and
- an overview of direct competition types observed in the passenger rail market based on a survey of major rail lines (domestic or international) connecting major conurbations of European countries.

To analyse and compare the initial effects and impacts of the health crisis resulting from the Covid-19 pandemic on the European rail markets, starting in September 2020 the IRG-Rail's «Market Monitoring» group initiated a specific collection of indicators (changes in traffic, rail ridership and economic results over the first half of 2020) to be included in the publication of the Ninth Annual Market Monitoring Report in spring of 2021.

IRG-Rail statistics are regularly relayed by the European Commission (Eurostat), which is in itself proof of their reliability and relevance.

IRG-Rail working groups

The Authority, in the person of Anne Yvrande-Billon, Vice-President¹, participated in the Plenary Assembly on 18 and 19 May 2020. Patrick Vieu, Vice-President and ART representative at IRG-Rail since September 2020, participated in IRG-Rail's Plenary Assembly on 17 and 18 November 2020.

During these meetings, the IRG-Rail Working Groups presented an overview of their 2020 activities and submitted the documents they had produced for approval by the Plenary Assembly.

The work focused particularly on the following topics:

- Report on the state of development of the Timetable and Capacity Redesign (TTR) project and its pilot (Access Working Group).
- Overview of International passenger services and charging practices for the minimum access package in Europe (Charges Working Group).
- Overview of Charges and Charging principles for Freight terminal (Charges for Service Facilities Working Group).
- Overview of the classification of tracks in the main maritime and inland port(s) in different European countries and report on monitoring of exemptions granted under Article 2(2) of the Implementing Regulation (EU) 2017/2177 (Access to Service Facilities Working Group)
- The application of the rail economic equilibrium test (EET) provided for in Article 11 of European Directive 2012/34/EU (Emerging Legislative Proposals Working Group)

The IRG-Rail Strategy Document for 2021-2024 and their work programme for 2021 were also discussed and approved by the Plenary Assembly.

At the Plenary Assembly on 17 and 18 November 2020, Patrick Vieu emphasised how important it was for regulators to exchange information and share experiences within the IRG-Rail network, particularly in the current context, when the passenger transport market segment is beginning to open up to competition and the times are marked by a health crisis strongly impacting the transport sector.



¹ Appointed on 31 October 2014 as Vice-President of Araf (Autorité de régulation des activités ferroviaires), Anne Yvrande-Billon left office on 31 August 2020.

A clear European strategy for 2021-2024

IRG-Rail's Strategy Document 2021-2024 was adopted by the Plenary Assembly on 17-18 November 2020. This important document was adopted by IRG-Rail for the first time in 2017.

Since the creation of IRG-Rail in 2011, the railway sector has undergone many changes at both national and European level — digitization; multimodality; recasting the capacity allocation process within the TTR project; the integration of environmental issues through the European Green Deal announced by the European Commission at the end of December 2019. In addition, the health crisis linked to the Covid-19 pandemic could very well raise new challenges for the entire sector and its players.

What IRG-Rail also does, is identify issues that are likely to play an important role in its future work, including smart and sustainable mobility, the search for new solutions for capacity management and multimodality.

Given this context, IRG-Rail members set three objectives for themselves for the 2021-2024 period:

- Promote effective and efficient and effective regulation applied consistently across Europe.
- Promote a resilient, open and sustainable European railway sector.
- Promote best regulatory practices for the benefit of passengers and rail freight users.



“What IRG-Rail also does, is identify issues that are likely to play an important role in its future work, including smart and sustainable mobility; the search for new solutions for capacity management and multimodality.”

ENRRB — the European Network of Railway Regulatory Bodies

On 15 January 2020, the European Network of Railway Regulatory Bodies (ENRRB), convened under the auspices of the European Commission, held its 19th meeting in Brussels. The Regulators presented their work, and in particular the

Swedish regulator (Transportstyrelsen) who gave a presentation on the impact, at European level, of the German Act prohibiting the operation of freight wagons.

Workshop on anti-competitive and discriminatory practices in the railway sector in Europe

At the initiative of the Authority, in the framework of the IRG-Rail and jointly organised by the European Commission's Directorate-General for Competition (DG COMP) and Directorate-General for Mobility and Transport (DG MOVE), a workshop on anti-competitive and discriminatory practices in the rail sector in Europe was held on 16 January 2020 in Brussels. It brought together rail and/or competition regulators from 9 European countries as well as representatives from DG COMP and DG MOVE.

Organised around three sessions, this workshop dealt with issues related to ticketing, access to service facilities, rolling stock, as well as competitive tendering procedures for public service contracts.

During the workshop, Anne Yvrande-Billon, the Authority's Vice-President, described the regulatory framework and the problems which were identified by the regulator in France regarding access to maintenance centres.



The work accomplished by the Thessaloniki Forum



The Authority became a member of the Thessaloniki Forum on 1 October 2019. Led by the European Commission's DG MOVE, the Forum brings together the independent supervisory authorities of all EU Member States. Its mission is to advise the Commission on the implementation of the Airport Charges Directive and to promote best practices relating to the economic regulation of airports.

In 2020, the work accomplished by the Thessaloniki Forum, in which the Authority took part, focused on the formulation of two sets of recommendations intended for airport decision-makers, one on the modulation of 'airport charges to address environmental issues' and the other on 'airport till structure and airport cost allocation'. Following on from this research, two official documents were adopted at the plenary meeting of 21 January 2021 during which Florence Rousse, Vice-President, represented ART (for more information, see Chapter 5).

The OECD Network of Economic Regulators (NER)

Global Conference on Governance Innovation

On 13 and 14 January 2020, the OECD, with the support of the Japanese Ministry of Economy, Trade, and Industry, organised the global conference on 'Governance Innovation: Towards Agile Regulatory Frameworks in the Fourth Industrial Revolution'.

Anne Yvrande-Billon spoke on «improving compliance through data and artificial intelligence», alongside panelists Hiroki Habuka (Attorney & Deputy Director of the Digital Economy Division at the Japanese Ministry of Economy, Trade and Industry), Srikanth Mangalam (President of the Public Risk Management Institute, Canada) and David Sadek (Vice President, Research, Technology and Innovation at Thales, France).

Webinars on regulating transportation during and after the health crisis related to the Covid-19 pandemic

At the initiative of the Authority's Vice-President Anne Yvrande-Billon, who is also Chair of the OECD's Network of Economic Regulators (NER) Bureau, and Scott Streiner, Managing Director of the Canadian Transportation Agency (CTA), a webinar was held on 29 April 2020 on regulating transportation during and after Covid-19. Regulators shared their experiences in managing the health crisis; and the challenges that must be addressed in the coming years.

ART's Vice-President also spoke on the longer-term effects of the crisis on the transport sector, at a webinar organised by the OECD's Network of Economic Regulators (NER) and the Water Industry Commission for Scotland (WCIS) on 24 June 2020 discussing and exchanging on a longer-term vision of the effects on regulated markets of the COVID-19 crisis and on how regulators are foreseeing changing their ways of working in this new context.

Regulatory Policy Committee

Fully involved in data-driven regulation, the Authority attended a roundtable on 16 November 2020 on regulation and emerging technologies, organised by the Regulatory Policy Committee and the OECD Economic Regulators Network.



Dialogue and coordination

On 25 September 2020, the Authority, represented by Fabien Couly, Market Monitoring Director, took part in the seminar on the regulation of platforms, organised by the Regulators' Club of Dauphine University, Paris.

The seminar was organised in two sessions:

- A first session devoted to a public debate on the regulation of digital platforms, with papers by Maya Bacache from ARCEP — France's Electronic Communications, Postal and Print media distribution Regulatory Authority, Jean-Yves Ollier from the French Council of State and Joëlle Toledano, Professor Emeritus at the Governance and Regulation Chair of Dauphine University, Paris.
- A second session devoted to the challenges of platform regulation in regulated sectors, with papers by Dominique Jamme of CRE — French Energy Regulatory Commission, Christophe Cousin and Sébastien Lecou of CSA — France's Audiovisual Council) and Anna Butlen of Hadopi — the High Authority for the dissemination of works and the protection of rights on the internet.



Joint regulation and bilateral relations

The joint regulation of the Channel Tunnel

The Authority's opinions on the Channel Tunnel

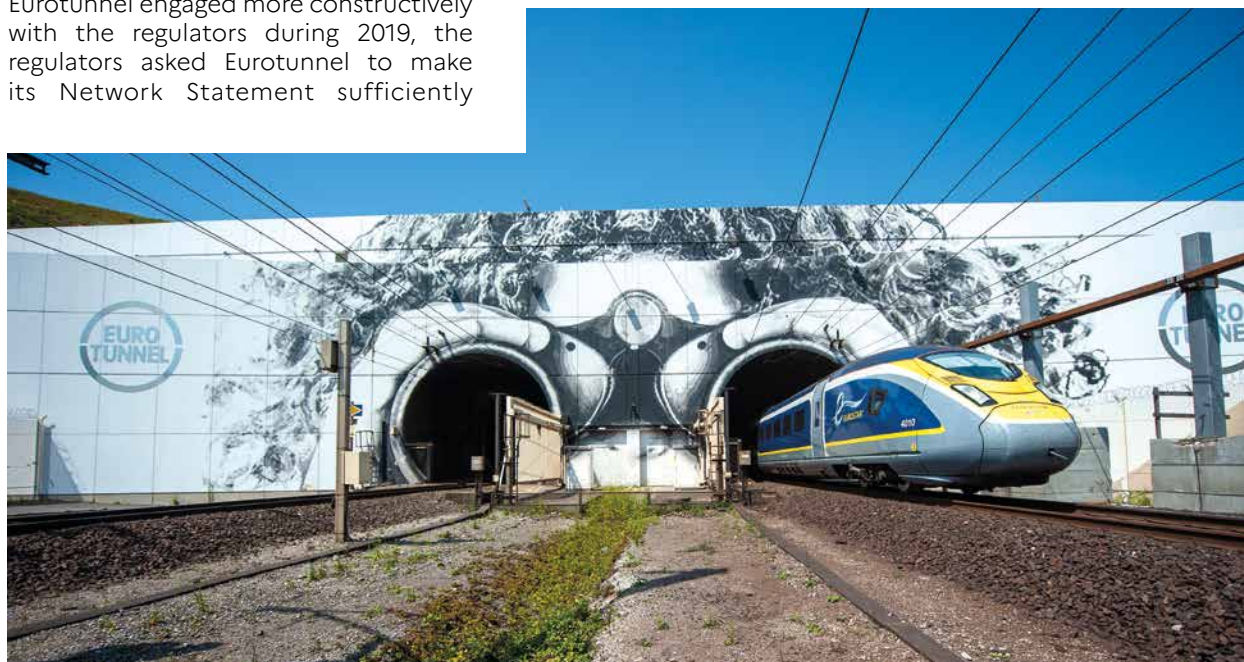
- ART and ORR's joint Opinion on Eurotunnel's Network Statement for the 2021 working timetable.

On 6 February 2020, the French Transport Regulatory Authority (ART) and its British counterpart, the Office of Rail and Road (ORR), rendered their Opinion on the «Annual Network Statement for Use of the Fixed Link — 2021 service timetable». The purpose of this Opinion is to ensure that Eurotunnel's Network Statement complies with the requirements of European Directive 2012/34/EU of 21 November 2012 as amended.

While ART and ORR were satisfied that Eurotunnel engaged more constructively with the regulators during 2019, the regulators asked Eurotunnel to make its Network Statement sufficiently

transparent, so that it provides railway undertakings, and in particular potential new entrants, clarity that the access to the Channel Fixed Link is granted (1) on fair and non-discriminatory terms; and (2) at access charges set in compliance with the principles set out in the Directive.

Indeed, constructive exchanges with Eurotunnel enabled the regulators to have a better understanding of some of the access conditions and associated mechanisms described in the 2021 Network Statement, for example on the reconciliation process between the costs covered by the Operational, Maintenance and Renewal («OMRC») agreement and the charges that appear in the Network Statement.



However, ART and ORR considered that Eurotunnel still only partially fulfils the requests made by the regulatory bodies and have set out in their Opinion the areas of the Network Statement that should be improved to provide the level of transparency that the railway undertakings require.

Also, ART and ORR considered that transparency could be improved if Eurotunnel were to share with the Regulators, the full responses that the it receives as part of its consultation on the draft Network Statement.



In addition, a number of other issues remain outstanding. Throughout 2020, the Regulators have engaged with Eurotunnel regarding these, and particularly regarding the ElecLink project. ElecLink refers to the name of the company planning to operate an electric interconnection by running a 51km electricity transmission cable inside the Channel Tunnel Fixed Link. Since the project is underway and installation works have begun, several issues have already been scrutinised by the Regulators, such as the way Eurotunnel will ensure a fair and non-discriminatory allocation of costs between ElecLink, the Eurotunnel Shuttle activities and railway undertakings.

Finally, the Opinion indicates that the Regulators will continue to engage with Eurotunnel on the need to improve the transparency of long-term costs recovery and of the performance regime.

- Opinion on the draft decree on safety and interoperability of the French section of the Channel Tunnel Fixed Link.

On 3 December 2020, the Authority rendered Opinion No. 2020-078 on the draft decree on rail safety and interoperability of the French section of the Channel Tunnel Fixed Link.

First of all, the Authority recalled the context and the issues related to the adoption of this draft decree, namely (a) the need for the French State to rapidly transpose to a regulatory level, the technical pillar of the fourth railway package for the French section of the Channel Tunnel Fixed Link and, (b) avoiding the risk of a legal vacuum linked to the end, on 31 December 2020, of the transitional period provided for in the Withdrawal Agreement reached on 31 January 2020 between the European Union and the United Kingdom.

The Authority then commented on the unclear scope of the role assigned by the draft decree to the Channel Tunnel Fixed Link Manager regarding the publication of data and to the updating of the French National Register of Railway Infrastructure (RINF). The Authority made recommendations to remedy this.

- Opinion on the Agreement referred to as the «RUC - OMRC 2020», on the allocation of Channel Tunnel Fixed Link operating costs.

The RUC - OMRC agreements constitute agreements implementing Annex V of the 1987 Railways Usage Contract (or RUC) concluded between Eurotunnel and the national rail transport operators of France and the UK (SNCF / The British Railways Board). They are the result of periodic negotiations on the allocation of operational costs (OMRCs) incurred by Eurotunnel in managing the Channel Tunnel Fixed Link infrastructure, which then forms the basis for the charging scheme used to cover these costs in Eurotunnel's Network Statements for the period covered by the agreements.

Following a referral by Eurotunnel on 26 October 2020, on 22 December 2020 and on the basis of Article L. 2133-2 of the French Transport Code which transposes into French law Article 56, paragraph 6 of European Directive 2012/34/EU of 21 November 2012 as amended, ART rendered Opinion No. 2020-086 on the «RUC - OMRC 2020» agreement which had been signed on 21 October 2020 and is applicable for the 2020 to 2024 period.

In Opinion No. 2020-086, the Authority did not oppose the «RUC - OMRC 2020» agreement, considering that the investigation had not led to the identification of:

- any obvious difficulties, regarding (a) a change in charges and associated costs, (b) any factoring in of the Eleclink development, as it ought not result in any additional costs for the Channel Tunnel Fixed Link rail users; and
- any elements showing a failure to fulfil the obligation to guarantee for all railway undertakings, a transparent and non-discriminatory access to the Channel Tunnel Fixed Link, at a time when it would indeed also seem unlikely that the period covered by the RUC - OMRC 2020 agreement would witness the arrival of new entrants on the Channel Tunnel rail passenger market.

Meetings of the Channel Tunnel Binational Committee

The Channel Tunnel Binational Committee consists of representatives of both Authorities in charge of the economic regulation of the Channel Tunnel, namely ORR and ART. It was convened three times in 2020:

- 27 January 2020, to approve Eurotunnel's Network Statement for the 2021 service timetable.
- 28 July 2020, to oversee the negotiation of the RUC - OMRC 2020 agreement.
- 4 December 2020, in particular to analyse the «RUC - OMRC 2020» agreement signed on 21 October 2020.

Bilateral encounters and international meetings

Meeting with the German Regulator

The Bundesnetzagentur is the German multi-sector regulator in charge, among other remits, of rail transport in Germany. It hosted the Authority in Berlin on 3 February 2020. The Authority was represented by its President Bernard Roman, its two Vice-Presidents Philippe Richert and Anne Yvrande-Billon, and Cécile George and Marie Picard, both members of the ART Board, as well as the Head of European and International Affairs, Eugénie Berthelot, and the Director in charge of railway transport, Olivier Salesse.

The two Authorities met for the third time to get to know each other further and exchange views on the issues facing each Authority. On this occasion, the Bundesnetzagentur presented to ART the new Climate Protection Act adopted by

the German Bundestag on 20 December 2019, and its consequences for the railway sector. Among the provisions of this Act, the legislator has provided for a decrease in the taxes applied to tickets for long-distance train journeys, effective since the beginning of 2020.

As for ART, the Authority explained its new competences stemming from Order No. 2019-761 of 24 July 2019 on the supervision of airport charges. ART then presented the Mobility Act No. 2019-1428 of 24 December 2019, about RATP's activities as infrastructure and security manager, as well as on the control of the opening of mobility data, and on ticketing.

To conclude the day, the Bundesnetzagentur and ART discussed the infrastructure manager governance models in France and in Germany. This discussion on the specificities of these two models aimed at sharing good practices establishing and preserving the independence of infrastructure managers.



Fact-finding mission in the Netherlands

As part of the updating of the performance contract between the State and SNCF Réseau and of the study conducted by the Authority on the operational management of traffic by SNCF Réseau, the Authority's departments carried out a fact-finding mission in the Netherlands on 10 and 11 February 2020.

The Authority's representatives therefore met with the infrastructure manager (ProRail), the Ministry of Transport and the managing director of Transdev, a new entrant in the Netherlands. They also visited both the Crisis Management Centre and Traffic Management Centre in Amsterdam. During the meeting with the Ministry of Transport, the issue was specifically discussed of how to develop performance indicators for ProRail, the infrastructure manager. Although ProRail's situation has its own specificities compared with SNCF Réseau (ProRail's objectives are set within the framework of the concession running from 2015 to 2025), the exchanges enabled the Authority's departments to note the strong incentive resulting from publishing clear and legible performance objectives on the ProRail website, which ensures the best possible execution of these objectives.



Meeting with the Dutch regulator

ART and ACM (Autoriteit Consument & Markt) held a series of virtual meetings to discuss their similar roles, missions and challenges.

First, the two authorities discussed market monitoring, data collection and digital mobility services («Mobility as a Service», MaaS) through the relations of ACM — the Dutch regulator — with local authorities — Doves — in charge of collecting information for MaaS and the digital multimodal ticket sales services, as well as discuss international data coordination (Eurostat).

After that, ACM presented its Datahub, which brings together in a virtual team, data scientists, engineers and managers, coming from all of the regulator's departments. There was also a presentation by ART of its new powers under the Mobility Act, followed by a presentation by ACM of a study of a market study of the MaaS.



A woman with blonde hair, seen from the back, is holding a microphone and speaking to an audience. The audience is blurred in the background. The text 'The Authority's communication strategy' is overlaid on the top left of the image, with a red curved line extending from the word 'strategy' towards the speaker's head.

The Authority's communication strategy



The Authority's communication strategy

ART considers it a strategic policy to bolster its communication strategy and its relations with all stakeholders.

ART considers as strategic the bolstering of its corporate communication and of its relations with its institutional partners at national and European level, as well as with the academic world and, more generally, with all stakeholders, including the users of regulated sectors.

A more proactive effort towards communicating and engaging with the European Commission, the French Government and its agencies, Parliament, courts, and local authorities, should enable the Authority to work towards improving the regulatory framework, despite the difficulties associated with health constraints.

The Authority's 10th anniversary



The French Transport Regulatory Authority celebrated its 10th anniversary at the French National Assembly on 29 January 2020 in the presence of the President of the National Assembly, Richard Ferrand, and under the high patronage of Prime Minister Édouard Philippe.



To celebrate this first decade of involvement in regulatory affairs, its President, Bernard Roman invited political and public decision-makers, economic players, and journalists to review with him the key stages of the Authority's development.

The President of the National Assembly, Richard Ferrand, paid tribute to the work done by the regulator and emphasized the trust placed in the Authority by the parliamentarians, as illustrated by the successive reforms they adopted over the years.

Accompanied by the Authority's entire Board, Bernard Roman reviewed the key stages in the Authority's history, the major developments achieved by the regulator and the major challenges and issues laying ahead.

An ongoing dialogue

Despite the constraints of working remotely because of the health crisis, ART remained attentive to its counterparts, paying them close attention. It continued to hold regular hearings with the regulated operators and was thus able to meet the institutional players of the various sectors it regulates via a digital platform.



Engaging with the Regions

In February 2020, Bernard Roman, President of the Authority, addressed the Transport and Mobility Commission of 'Régions de France' to present to its members the Authority's priorities in railway matters and the major relevant issues of 2020.

Live streamed meetings

The President of the Authority, Bernard Roman, spoke in November 2020 at the 27th Transport and Mobility Meeting (27^{es} Rencontres Transports et Mobilités). It was broadcasted live on a digital platform enabling anyone to follow the exchanges. Alongside other sector players, he notably took part in the roundtable entitled «Railways: The great comeback — objectives, model and timetable?»

27^{ES} RENCONTRES TRANSPORTS ET MOBILITÉS
QUELLES TRANSITIONS POUR LES MOBILITÉS ?

10H10 **TABLE-RONDE 2** **MERCREDI 18 NOVEMBRE**

UN ÉVÉNEMENT 100 % DIGITAL SUR zoom

LE GRAND RETOUR DU FERROVIAIRE : QUELS OBJECTIFS, MODÈLE ET CALENDRIER ?

Présidée par **Laurianne ROSSI**
 Questeuse de l'Assemblée nationale,
 Députée des Hauts-de-Seine,
 Responsable de la réforme ferroviaire

Avec la participation de **Damien ADAM**
 Député de la Seine-Maritime,
 Rapporteur pour avis sur le projet de
 Loi pour un nouveau pacte ferroviaire

Fabienne KELLER
 Députée européenne

Hervé LE CAIGNEC
 Président de LISEA

Bernard ROMAN
 Président de l'Autorité
 de régulation des
 transports (ART)

En partenariat avec
Lisea **TOTAL** **Agence de Développement des Infrastructures de Transport de France**

0:00 / 1:34:22

Information to enhance the public debate

ART works to support public decision-makers and the sector's economic players. The success of this mission lies in a greater and wider dissemination of information about the markets the Authority regulates, in particular through engaging with parliamentarians and circulating reports it produces.

Hearings before the French Parliament and the Senate Inquiry Committee on motorway concession companies

As part of the various legislative reviews and parliamentary missions, Bernard Roman, President of the Authority, is regularly asked to appear in a hearing.

On 21 January 2020, Bernard Roman was therefore heard by the National Assembly on the regulation and control of motorway concession companies. Christine Pires Beaune, MP for the Puy-de-Dôme area, chaired the hearing. Early in March 2020, it was the turn of the Senate Inquiry Committee on the control, regulation and development of motorway concessions to interview the President of the Authority; the rapporteur of the Inquiry Committee, Vincent Delahaye, was then invited

to the Authority's premises on 17 July 2020. On Monday 9 November 2020 (Committee on Regional Planning and Sustainable Development) and Tuesday 10 November 2020 (Committee on Finance), Bernard Roman was finally heard by the Senate as part of the examination of the Budget Bill for 2021, on the «Land and Maritime Transport» mission.



Publications

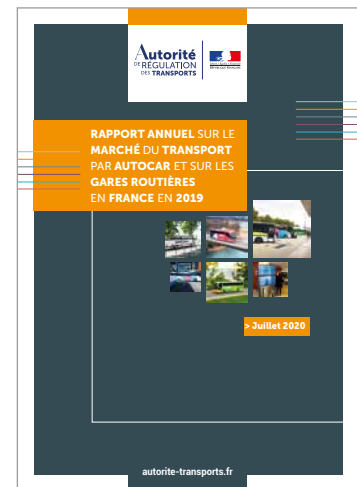
The Authority's sector-specific publications contribute to reaching the objective of disseminating widely accessible information on the regulated sectors and on ART's action.



Annual report
on the passenger rail
transport market



Half-yearly report on the
activities of the liberalised
coach services operators
(LCS operators) coach
transport market



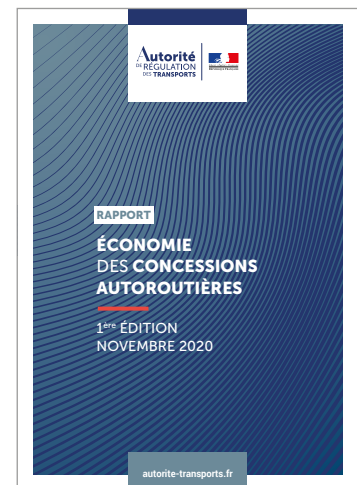
Annual report on the coach
transport market and coach
terminals



Annual report on the
overview of motorway
concession accounts



Annual report on MCC
contracts and tenders



Report on the general
economics of motorway
concessions



Listening to the transportation ecosystem via public consultations

In 2020, by launching eight public consultations and remaining in line with the spirit of «dialogue» which drives it, the Authority was able to continue sharing its work, interrogations and reflections.

As a direct result of the public consultations organised by the Authority, the quality of its decisions was enhanced. The ability to draw from the expertise and recommendations of the sector's players, discussing different points of

view, and identifying effects that had not been anticipated are additional direct results for the regulator. The following eight consultations enabled stakeholders from regulated sectors to be heard on technical issues.

Airports

- Assessment of the WACC levels of regulated perimeters for airports receiving over 5 million passengers.

Railways

- Draft decision on the setting of a deadline in providing an answer to requests for access to service facilities and provision of services in these facilities, as referred to in European Directive 2012/34/EU, Annex II point 2.
- Use of sidings.
- Draft decree on the management and operation of passenger rail stations used mainly by PSO passenger rail services.
- Draft decision on the provision of information by rail freight undertakings and other authorised applicants.
- Draft decision on the provision of information by passenger railway undertakings.

RATP

- Draft decision on the transmission of information by RATP, the infrastructure manager of lines A and B of the RER, i.e., the Greater Paris Regional Express Railway.
- Draft decision on the transmission of information by RATP as transport operator of lines A and B of the RER, the Greater Paris Regional Express Railway.

Follow us...



On our website

@ <https://www.autorite-transport.fr/>

Via its website, the Authority offers all visitors the possibility to stay apprised of the latest news by subscribing to the various notification alerts on:

- News
- Press releases
- Opinions and decisions
- Public consultations

On social media

Active on Twitter and LinkedIn, the Authority dispatches its actions, publications, opinions and decisions via social media: a way of offering another option to stay apprised of the latest ART news.

 https://twitter.com/ART_transports

 <https://www.linkedin.com/company/art-autorite-de-regulation-des-transport>

Governance and organisation



Governance and organisation

In 2020,
the Authority committed
even further to carry out
of all its missions.

In a dual context of quasi continuous remote working, plus increased activity due to the expansion of its competences, in 2020 the Authority devoted itself heavily to adapting to this unprecedented situation to carry out all its missions.

Thanks to the expertise and strong commitment of the staff and of the Board members, the Authority was able to carry out its missions in their entirety this year again, often within very tight deadlines.

Facts
& figures
on the Authority's
workforce and the profile of its staff

• ART's workforce •



88 FTE

(Full Time Equivalent)
on 31 December 2020

85,09 FTEE

(Full Time Equivalent Employee)
in 2020

• STAFF PROFILE •

97%
are executives



87.5%
are contract staff

12.5%
are civil servants
on secondment

48%
are women

52%
are men

39.5
years old on average



A new governance

The French Transport Regulatory Authority is an independent public authority endowed with legal personality. It is headed by a Board — a decision-making and deliberative body — and a Sanctions Commission — a jurisdictional body independent from the Board.

The Board

As the Authority's decision-making body, the Board defines the Authority's main guidelines and, with the exception of sanction decisions, issues opinions and decisions that form the basis of its general doctrine.

Its independence is guaranteed by the status of its members.

The Board members' terms of office cannot be revoked. They are appointed for a non-renewable term of six years, based on their economic, legal or technical expertise in the field of digital services or land or air transport, or for their expertise in competition matters, particularly in the field of network industries. In addition, their office is incompatible with any elected office at French departmental, regional, or European level, and with owning any direct or indirect interest in any of the sectors regulated by the Authority. At the end of their term of office, Board members may neither hold any professional position, nor exercise any responsibility within any of the

companies or entities falling within the scope of the regulation, for a minimum period of three years.

Considering the new powers entrusted to the Authority, the Mobility Act has provided for restructuring the Regulator's governance.

Act No. 2014-872 of 4 August 2014 on railway reform had set the composition of the Authority's Board at seven members appointed by decree, including:

- 3 permanent members carrying out their duties full-time: the President appointed by the President of the French Republic, and two Vice-Presidents appointed respectively by the President of the National Assembly and the President of the Senate (the first Vice-President position was created in November 2014 and the second in August 2018).
- 4 non-permanent members appointed by the Government.

However, due to the significant expansion of the Authority's scope of intervention in 2019, the legislator decided to change the Authority's governance and alter the composition of its Board. Act No. 2019-1428 of 24 December 2019 of the Framework Act on mobility thus provided for the creation of two new Vice-President positions, bringing the number of permanent Board members

up to five; the Authority's two new Vice-Presidents were appointed by decree of the President of the Republic on 19 May 2020. The non-permanent members of the Authority's Board will complete their terms of office and will not be replaced, so that the Board will eventually be composed exclusively of permanent members.

The Sanctions Commission

To separate the functions of prosecution and inquiry from those of judgement, the Sanctions Commission is independent of the Board. The Commission makes decisions following referrals from the Board and may sanction regulated companies for their failure to meet their obligations, following an adversarial procedure involving the parties. The Commission is comprised of a member of the Council of State, a member of the Court of Cassation and a magistrate from the Court of Audit, all three appointed for a non-renewable six-year term.

The following persons were appointed by decree on 16 October 2015 as members of the Sanctions Commission:

- Paquita Morellet-Steiner, Councillor of State; she chairs the Commission.
- Robert Parneix, Councillor at the Court of Cassation.
- Francis Salsmann, Senior Councillor at the Court of Audit



The Sanctions Commission

From left to right:
Robert Parneix
Paquita Morellet-Steiner (President)
Francis Salsmann

The Board members

The following members have effectively been part of the Board throughout 2020:

- Bernard Roman, President, appointed by decree of the President of the Republic on 2 August 2016.
- Philippe Richert, Vice-President, appointed by decree of the President of the Republic on 9 November 2018, on a proposal from the President of the Senate.
- Florence Rousse, Vice-President, appointed by decree of the President of the Republic on 19 May 2020, on a proposal from the Government.
- Patrick Vieu, Vice-President, appointed by decree of the President of the Republic on 19 May 2020, on a proposal from the Government.
- Sophie Auconie, Vice-President, appointed by decree of the President of the Republic on 24 March 2021, on a proposal from the President of the National Assembly.
- Anne Yvrande-Billon, Vice-President, appointed by decree of the President of the Republic on 31 October 2014, on a proposal from the President of the National Assembly; she left office on 31 August 2020.
- Cécile George, Board member, appointed by decree on 22 December 2016, on a proposal from the Government.
- Yann Pétel, Board member, appointed by decree on 18 March 2016 on a proposal from the Government; he left office on 4 November 2020.
- Marie Picard, Board member, appointed by decree on 22 August 2016, on a proposal from the Government.



Bernard Roman

President

Bernard Roman holds a degree in literature, a postgraduate diploma in contemporary history (political science option) and is a lawyer of the Lille Bar. From 1979 to 1982 he was Chief of Staff of Pierre Mauroy Mayor of Lille. In 1981, he was appointed Special Adviser to the Prime Minister's private office at Matignon where he stayed until 1983. He then became Deputy Managing Director of the Conseil général du Nord until 1986. Deputy Mayor of the city of Lille and Vice-President of the Communauté urbaine of Lille from 1983 to 2004, he was regional councillor (Socialist Party) of the Nord-Pas-de-Calais Region from 1986 to 1989 and from 2004 to 2015. He was elected General Councillor for the Nord département from 1988 to 1997. From 2004 to 2012, Bernard Roman was First Vice-President of the Nord-Pas-de-Calais Regional Council. He was a substitute for Pierre Mauroy at the National Assembly, a deputy for the 1st constituency of the Nord département from 1988 to 1997, and a candidate in the 1993 legislative elections. Bernard Roman was elected in 1997 as a representative at the National Assembly representing the Nord département; he was vice-president of the Socialist group at the National Assembly. He was elected President of the Law Commission in 2000. Re-elected as a member of the National Assembly in the legislative elections of 2002, 2007 and 2012, Bernard Roman was elected first quaestor of the National Assembly from June 2012 to July 2016. He then resigned from his mandate as a representative at the National Assembly following his appointment as President of the French Transport Regulatory Authority.



Philippe Richert

Vice-President

A former teacher of natural sciences, Philippe Richert served almost 20 years in the French National Education system. He was first elected to the Bas-Rhin Conseil Général in 1982, presiding over it from 1998 to 2008. He became a senator for the Bas-Rhin département in 1992 and was successively vice-president from 2004 to 2008 and quaestor from 2008 to 2010 in the High Assembly. He was elected President of the Regional Council of Alsace in 2010. That same year, he was appointed Minister in charge of local authorities in the government of François Fillon. In 2016, as President of the newly established Grand Est Regional Council, he became President of the Association of French Regions (Association des Régions de France).



Florence Rousse

Vice-President

A graduate of École Polytechnique, Florence Rousse entered the French State's «Corps of Bridges, Waters and Forests» as senior engineer. She is also a graduate of École Nationale de l'Aviation Civile and a former Managing Director of the Établissement Public de Sécurité Ferroviaire (EPSF). She has nearly 30 years of experience in the field of civil aviation. She began her career in 1981 at the Directorate-General for Civil Aviation (DGAC), initially employed in the department of air transport as head of the Bureau for economic supervision of regional airlines and non-scheduled (charter) air services. She then held various positions within DGAC. From 2001 to 2002, she was appointed Deputy Director of the 'New Airport Mission' working on a project for a new Parisian airport. In 2004, she became Deputy Director of control and safety, then Director of economic regulation in 2007, before being appointed Director of civil aviation safety from 2009 to 2014. From 2014 to January 2020, she served as Managing Director of EPSF.



Patrick Vieu

Vice-President

A graduate of École Nationale d'Administration (ENA - «Léon Gambetta» class of 1993), with a degree in history and a doctorate in philosophy, Patrick Vieu began his career at the Ministry of Transport as deputy, then head of the office for the financing and programming of motorways and works under concession (1993-1997). He then joined the «mobility» department at the Court of Audit (1997-1999). After that position, he was entrusted with the sub-directorate for motorways and works under concession (1999-2004). Patrick Vieu was appointed Director of Rail and Public Transportation (2005-2008), then Director of Transport Services (2008-2011) at the Ministry of Ecology, Sustainable Development, Transport and Housing.

In the summer of 2011, he became a Project Director for the Vice-President of the General Council for Environment and Sustainable Development (CGEDD). In May 2012, he was appointed «Environment and Territories» advisor in charge of transport and sustainable development issues for the Presidency of the Republic, a position he held until June 2014. He then returned to CGEDD as advisor to the Vice-President.



Sophie Auconie

Vice-President

A graduate of École Supérieure de Commerce et de Management (ESCEM) in Tours, a consular executive in charge of territoriality at the Touraine Chamber of Commerce and Industry from 1993 to 2006, Sophie Auconie has been both an artisan and a consultant. Elected Member of the European Parliament in 2009 for the Massif Central-Centre constituency, she served on the Committee on Regional Development, then on the Committee on the Environment, Public Health and Food Safety, and a substitute member of the Committee on Economic and Monetary Affairs. Appointed co-president of the French Water Circle and elected governor of the World Water Council in June 2012, she was re-elected in 2015. From 2017 to February 2021, she served as member of the National Assembly representing Indre-et-Loire's 3rd constituency. She resigned before being appointed vice-president of ART on 24 March 2021.



Anne Yvrande-Billon

Vice-President

(Left office on 31 August 2020)

Anne Yvrande-Billon holds a doctorate in economics from the Paris-Sorbonne University. She was appointed Vice-President of the Authority in October 2014 and has chaired the European Independent Regulators' Group - Rail (IRG-Rail) in 2017. In April 2017, she became a member of the Commission on Ethics in the Rail Transport System. She is also president of the Club des régulateurs (Paris-Dauphine University Foundation) and member of the OECD's Network of Economic Regulators (NER) Bureau since December 2018. At the French Competition Authority where she had worked from 2011 to 2014, she had held the position of senior economist, then of Deputy Chair of the Mergers Unit. She was a scientific advisor to the French Council of Economic Analysis from 2008 to 2011, and a lecturer in economics at Paris-I University from 2003 to 2008.



Cécile George

A graduate engineer of École des Mines in Paris, Cécile George also advises the European Commission on electrical interconnections and lectures on the economics of regulation at École des Ponts ParisTech. She had previously worked at the Commission for energy regulation (CRE) as Director of Access to electrical networks, after having been Head of the Department of Economics and Pricing. Before that, she was head of the Industrial Development Division at the Regional Directorate for Industry, Research and the Environment (Drire) in Burgundy, where she was coordinating public support for businesses in the Burgundy Region.



Yann Pétel

(Left office on 4 November 2020)

A graduate of École Nationale d'Administration (ENA — «Human Rights» class of 1981), Yann Pétel began his career at the Ministry of Industry in the Directorate-General for Energy and Raw Materials, then in the Directorate-General for Industry. After joining the Court of Audit as a mobile finance inspector from 1986 to 1988, he became Deputy Director of European Affairs at the Ministry of Industry, before being appointed head of the Department of Postal Regulations at the Ministry of Postal Services and Telecommunications in 1993. Government Commissioner to the Board of Directors of the French Post Office, he chaired the Observatory of postal rates for printed media, before being appointed Mediator of the universal postal service obligation in 2002.



Marie Picard

Marie Picard graduated from École Nationale d'Administration (ENA — «Léonard de Vinci» class of 1985) and from the Institut d'Études Politiques (IEP) in Paris. When she graduated from ENA in 1985, she was appointed advisor to the administrative tribunal. She was then appointed counsellor at the Administrative Courts of Orléans, Versailles and Paris, permanent rapporteur at the Competition Council (former name of the Competition Authority) from 1991 to 1995, then general rapporteur from 1995 to 1999. Appointed Master of Requests at the Council of State, she served as State Councillor from February 2012 to August 2020.



The Authority's departments

The departments are tasked with supporting the Authority in the performance of its mission, including to prepare its opinions and decisions and monitor their implementation. They are staffed with over eighty co-workers who all share a high level of expertise.

The Authority's missions and activities have increased considerably in recent years. Indeed, new competences were entrusted to the Authority in 2019, pursuant to Order No. 2019-761 of 24 July 2019 on the regulation of airport charges, and to Mobility Act No. 2019-1428 of 24 December 2019 regarding the opening up of mobility data and the development of digital sales services, as well as regarding the regulation of all activities carried out by the Régie autonome des transports parisiens (RATP) on the one hand as infrastructure manager of the historic metro and the RER network and technical manager of the Greater Paris public transport network, and on the other with regard to the security services provided by RATP's internal security department.

In order for the Authority to be able to carry out its new missions, the capping of its employment level was raised to 94 FTEs (full-time equivalent employee) for 2020 by Finance Act No. 2019-1479 of 28 December 2019 regarding 2020, i.e., 11 additional positions — including two Vice-Presidents — compared to 2019.

In view of its constantly evolving competences, the Authority is committed to recruiting staff with a high level of expertise (economists, sector experts, data analysts, lawyers, auditors/financial analysts).

The Authority's departments are composed of public-sector contract staff and seconded public servants and magistrates.

Under the authority of a General Secretary, the investigations departments are organised around:

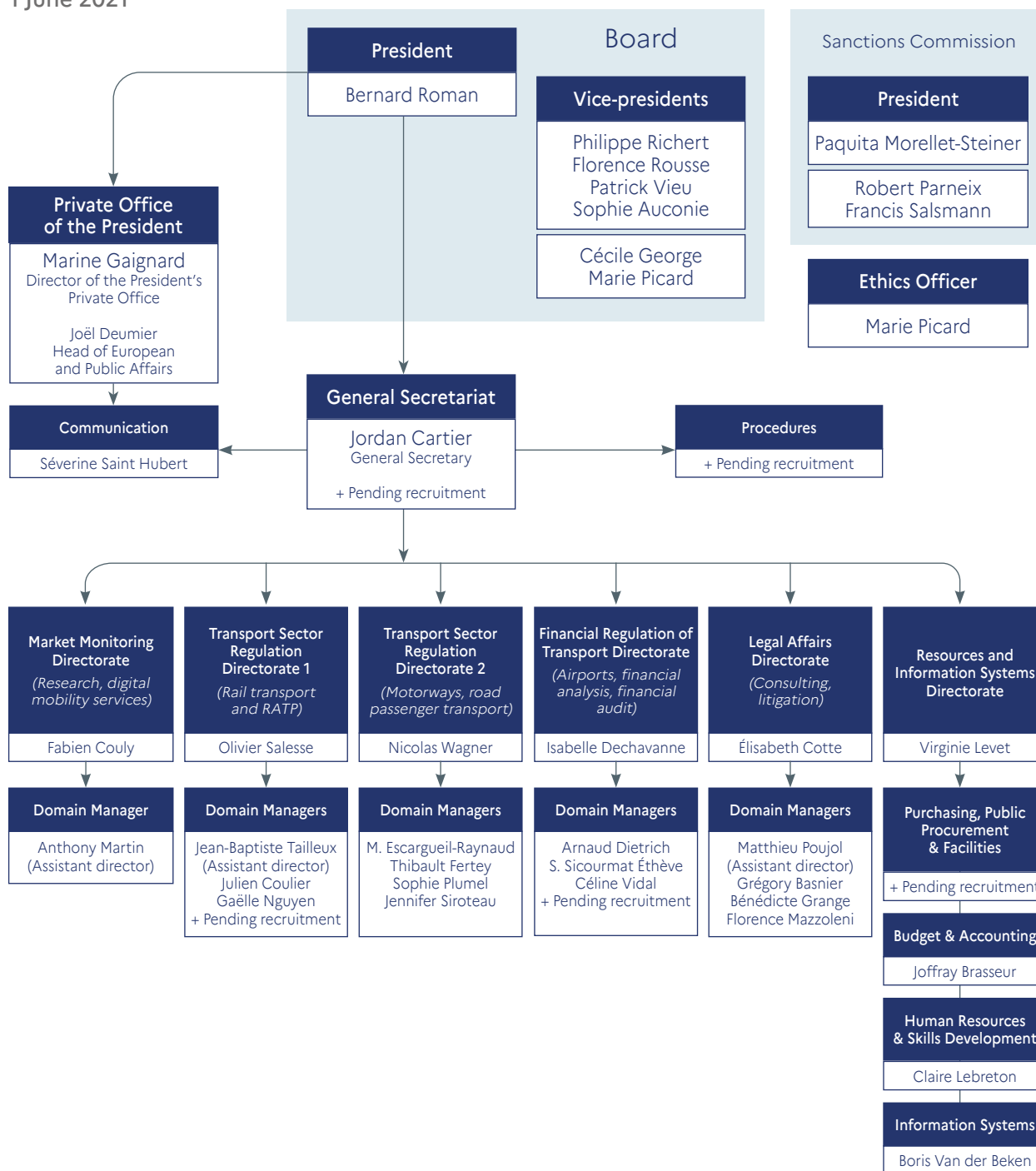
- 2 sectoral business directorates, respectively in charge of the sectoral regulation of rail transport and RATP, and of motorways and road passenger transport.
- 3 intersectoral business directorates, respectively in charge of legal affairs, financial regulation of transport (including the regulation of airport charges) and market monitoring (including the regulation of digital mobility services).
- 1 directorate pooling all 'support' functions.

The President's Private Office, reporting directly to the President, assists the President in the development and running of the Authority and of the Board, as well as in the identification and preparation of strategic questions.

Finally, the Communication department reports to both the General Secretary and the Director of the President's Private Office and is responsible for developing and implementing the Authority's overall communication strategy.

Organisational chart

1 June 2021



The Authority's financial resources

The Authority's funding

2020 marks a change in the way the Authority is funded, as it moved from a system of earmarked taxes levied from the regulated sectors to an operating subsidy for public service charges drawn under programme 203¹ paid by the Ministry of Transport's Directorate-

General for Infrastructure, Transport and the Sea (DGITM). The amount of this subsidy is €11.4 million, as set out in the Finance Act. However, due to a deduction of €0.2 million levied by the DGITM, the actual funding received by the Authority amounts to €11.2 million.

Breakdown of the Authority's income (Financial Account for 2020)	Amount (in thousands of €)	Breakdown (in percentage)
Operating subsidy	11,227	99%
Other income	158	1%
TOTAL	11,385	100%

The Authority's expenditure

Operating expenses reached €14.6 million in 2020 (€15.1 million in capital

expenditure)², the main expenditure item being staff costs.

Breakdown of expenditure excluding repayment and management costs in 2020 (Financial Account for 2020)	Amount (in thousands of €)	Breakdown (in percentage)
Staff costs	10,268	68%
Real-estate expenses	1,738	11%
Other general overheads	2,572	17%
Operating expenses sub-total	14,578	96%
Capital expenditure	552	4%
TOTAL	15,130	100%

¹ Action 47-04.

² Expenditure excluding repayment to the State because of the capping of the fixed fee payable by railway undertakings; and excluding management fees levied by the departments of the Directorate-General of Public Finance for the repayment to the Authority of the tax for control costs paid by the motorway concession companies.

The Authority's working capital had to be consumed to cover the gap between its financial resources and the volume of its expenditure, the former having remained stable since 2017 while the latter increased to support the expansion of the Authority's missions (strengthening of missions and competences in the rail sector in 2018; extension of the scope of intervention to three new sectors in 2019) and the increase in the number of staff members (raising the capping level of authorised positions from 75 FTEs in 2017 to 94 FTEs in 2020). For these reasons, the Authority's working capital was down by €3.5 million between 2019 and 2020.

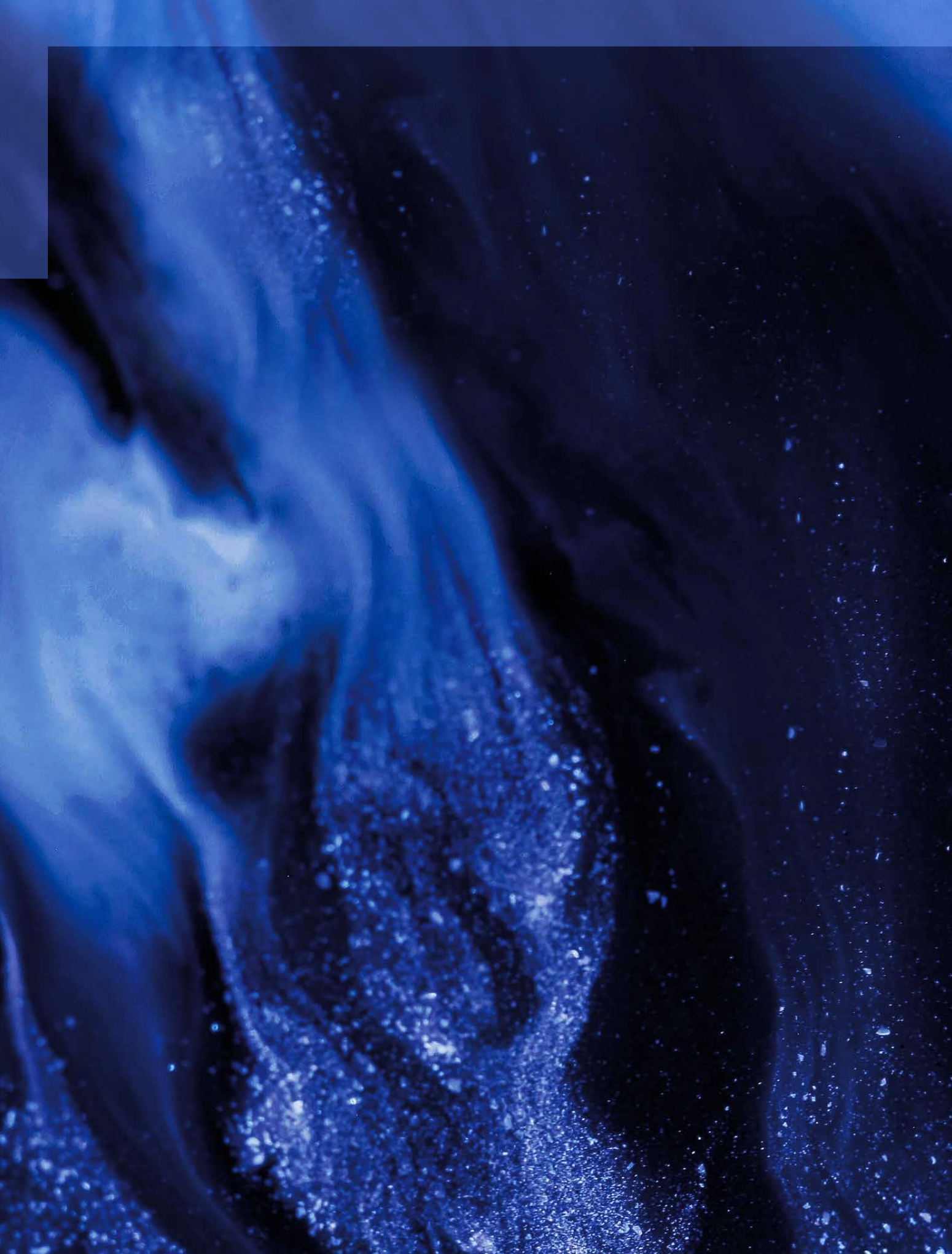
With the aim to control costs and optimise its operating and organisational methods, the Authority initiated or continued two major projects in 2020, which will be completed in 2021:

- The regrouping of all its departments and units at the same location (as opposed to one site in Paris and one in Le Mans).
- The implementation of a new, more agile «project mode» organisation in the departments for investigations, enabling optimal use of the Authority's resources to cope with the significant expansion of ART's tasks and competences and the tight deadlines for issuing opinions and decisions. A more flexible «project mode» organisation, facilitating cross-sectoral action and the comparison of points of view and expertise (technical and economic, legal, financial and data analysis), should also contribute to the effectiveness of the regulator's action. Lastly, this new organisation should provide a stimulating working environment and offer a high level of responsibility to the Authority's staff, whilst supporting the upgrading of their skills.

Pooling with other authorities' services or with the State's administration services

The Authority continued its partnership policy initiated over the past years:

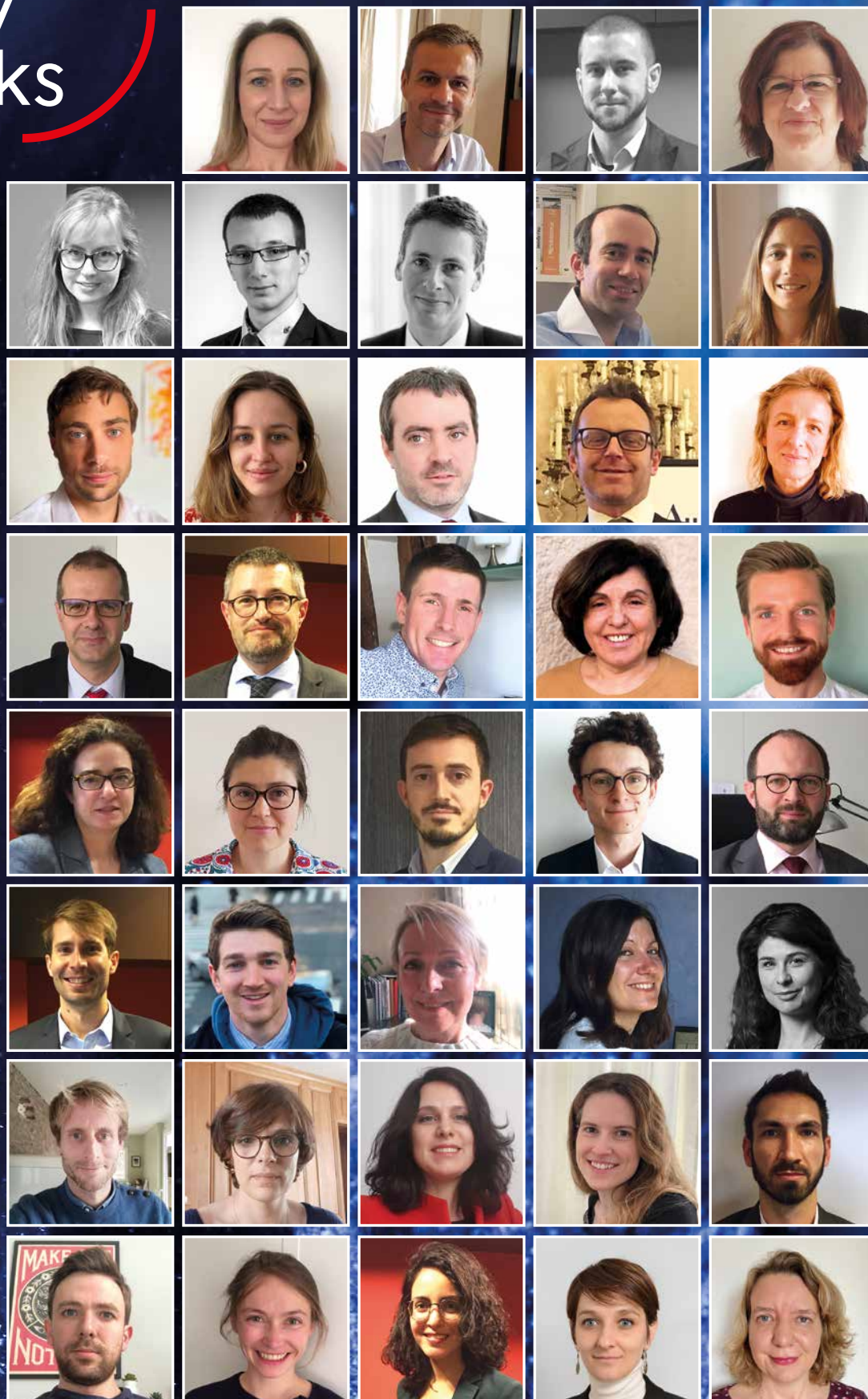
- Participation in the biannual exchanges begun in 2017, between the presidents of several Authorities.
- Sharing of experience and «best practices», benchmarking on issues such as ethics, wage policies, legal news relating to changes in civil service legislation, etc.
- In terms of HR mobility, implementation of a network between Independent Administrative Authorities (AAIs) and Independent Public Authorities (APIs) to share information on available positions.
- Pooled procurement for services providing the supply of transport tickets and related services (hotel reservations) for staff members carrying out missions, was set up in 2017 for a duration of 4 years with the following Authorities: the Financial Markets Authority (AMF), the French Anti-Doping Agency (AFLD), the Electronic Communications, Postal and Print media distribution Regulatory Authority (ARCEP), the High Authority for the Distribution and Protection of Intellectual Property on the Internet (Hadopi) and the High Council of Statutory Auditors (H3C).
- Sharing in pooled procurement since 2019, when the Authority joined the pool led by the State Procurement Directorate.





**A warm
thank you
to all our staff**

Many thanks





Annexes:
opinions
& decisions





Annexes: opinions & decisions

Dispute settlements

- > Décision n° 2020-019 du 28 février 2020
Règlement du différend entre la région Provence-Alpes-Côte d'Azur et SNCF Voyageurs relatif à la détermination du nombre d'emplois devant être transférés en cas de changement de titulaire de lots du contrat de service public de transport ferroviaire de voyageurs conclu entre la région et SNCF Voyageurs
- > Décision n° 2020-044 du 30 juillet 2020
Règlement du différend entre la région Hauts-de-France et SNCF Voyageurs concernant la transmission d'informations relatives à l'organisation ou à l'exécution des services publics de transport ferroviaire de voyageurs et aux missions faisant l'objet du contrat de service public conclu entre la région et SNCF Voyageurs

Infringement proceedings

- > Décision n° 2020-008 du 23 janvier 2020
Clôture de la procédure en manquement ouverte à l'encontre de SNCF Mobilités, devenu SNCF Voyageurs, pour méconnaissance des règles de séparation comptable
- > Décision n° 2020-033 du 28 mai 2020
Mise en demeure de SNCF Voyageurs pour non-respect des obligations lui incombant au titre de l'accès aux installations de service des centres d'entretien et aux prestations qui y sont fournies pour l'horaire de service 2020
- > Décision n° 2020-034 du 28 mai 2020
Mise en demeure de FRET SNCF pour non-respect des obligations lui incombant au titre de l'accès aux installations de service des centres d'entretien et aux prestations qui y sont fournies pour l'horaire de service 2020
- > Décision n° 2020-035 du 28 mai 2020
Mise en demeure de SNCF Réseau pour méconnaissance des décisions de l'Autorité n° 2013-016 à 2013-019 du 1^{er} octobre 2013

Economic equilibrium test

- > Décision n° 2020-002 du 9 janvier 2020
Demande de test d'équilibre économique formulée par la Région Occitanie concernant l'exploitation d'un nouveau service librement organisé de transport ferroviaire entre Paris et Toulouse notifié par la société Flixtain
- > Décision n° 2020-003 du 9 janvier 2020
Demandes de test d'équilibre économique formulées par les Régions Bourgogne-Franche-Comté et Auvergne-Rhône-Alpes concernant l'exploitation d'un nouveau service librement organisé de transport ferroviaire entre Paris et Lyon notifié par la société Flixtain
- > Décision n° 2020-004 du 9 janvier 2020
Demande de test d'équilibre économique formulée par la Région Hauts-de-France concernant l'exploitation d'un nouveau service librement organisé de transport ferroviaire entre Paris et Bruxelles (via Saint-Quentin) notifié par la société Flixtain

Draft regulatory documents

- > Avis n° 2020-030 du 30 avril 2020
Projet de décret relatif aux modalités d'obligation d'assurance pour les opérateurs ferroviaires non soumis à l'exigence de licence d'entreprise ferroviaire
- > Avis n° 2020-050 du 3 septembre 2020
Projet de décret relatif aux conditions d'application des articles L.1115-1, L.1115-3 et L.1115-5 du code des transports
- > Avis n° 2020-061 du 17 septembre 2020
Projet d'arrêté relatif aux autorisations temporaires de circulation ferroviaire aux fins d'essai
- > Avis n° 2020-064 du 8 octobre 2020
Projet de décret relatif à la gestion et à l'exploitation des gares de voyageurs principalement utilisées par les services publics de transports ferroviaire de voyageurs
- > Avis n° 2020-069 du 22 octobre 2020
Projet de décret relatif au transfert de gestion de lignes ferroviaires d'intérêt local ou régional à faible trafic et au transfert de missions de gestion de l'infrastructure sur de telles lignes, et portant diverses autres dispositions
- > Avis n° 2020-078 du 3 décembre 2020
Projet de décret relatif à la sécurité et à l'interopérabilité ferroviaires de la partie française de la liaison fixe trans-Manche
- > Avis n° 2020-081 du 10 décembre 2020
Projet de décret relatif aux conditions d'application des articles L.1115-1, L.1115-3 et L.1115-5 du code des transports

Rail Network Statements (DRR)

- > Avis n° 2020-011 du 30 janvier 2020
Fixation des redevances relatives aux prestations régulées fournies par SNCF Voyageurs et FRET SNCF dans les installations de service des centres d'entretien pour l'horaire de service 2020
- > Décision n° 2020-012 du 30 janvier 2020
Fixation de délais de réponse aux demandes d'accès aux installations de service visées à l'annexe II, point 2 de la directive 2012/34/UE et de fourniture de services dans lesdites installations
- > Avis n° 2020-014 du 6 février 2020
Document de référence annuel pour l'utilisation du Lien Fixe pour l'horaire de service 2021
- > Avis n° 2020-015 du 6 février 2020
Document de référence du réseau ferré national modifié pour l'horaire de service 2020 et au document de référence du réseau ferré national pour l'horaire de service 2021
- > Avis n° 2020-016 du 6 février 2020
Fixation des redevances d'infrastructure liées à l'utilisation du réseau ferré national pour les horaires de service 2021 à 2023
- > Avis n° 2020-021 du 12 mars 2020
Fixation des redevances relatives aux prestations régulées fournies par SNCF Réseau sur les terminaux de marchandises, sur les voies de service et sur certaines installations de service utilisant des voies de service pour l'horaire de service 2021
- > Avis n° 2020-022 du 12 mars 2020
Fixation de la redevance relative à la prestation de mise à disposition d'espaces industriels sur les voies de service pour l'horaire de service 2020

- > Avis n° 2020-025 du 19 mars 2020
Fixation des compléments de redevances d'infrastructure liées à l'utilisation du réseau ferré national pour l'horaire de service 2020
- > Avis n° 2020-049 du 30 juillet 2020
Fixation des redevances d'infrastructure liées à l'utilisation du réseau ferré national pour les horaires de service 2021 à 2023 (nouvelle saisine du 5 juin 2020)
- > Avis n° 2020-077 du 26 novembre 2020
Fixation des redevances relatives aux prestations régulées fournies par SNCF Voyageurs et Fret SNCF dans les installations de service des centres d'entretien pour les horaires de service 2020 et 2021

Rail Stations Network Statement (DRG)

- > Avis n° 2020-020 du 28 février 2020
Redevances relatives aux prestations régulées fournies dans les gares de voyageurs pour l'horaire de service 2020

Other issues

- > Avis n° 2020-009 du 23 janvier 2020
Proposition de nomination du président-directeur général de SNCF Réseau
- > Avis n° 2020-036 du 11 juin 2020
Projet de plan de gestion des informations confidentielles de LISEA
- > Décision n° 2020-037 du 11 juin 2020
Signature d'un accord de coopération entre l'Établissement public de sécurité ferroviaire et l'Autorité de régulation des transports
- > Avis n° 2020-043 du 16 juillet 2020
Code de bonne conduite de SNCF Réseau
- > Avis n° 2020-080 du 8 décembre 2020
Projet de budget de SNCF Réseau pour l'année 2021
- > Avis n° 2020-086 du 22 décembre 2020
Accord dit « RUC OMRC 2020 » sur la répartition des coûts d'exploitation de la liaison fixe trans-Manche

Coaches

Data collection

- > Décision n° 2020-006 du 23 janvier 2020
Transmission d'informations par les entreprises réalisant des services réguliers interurbains de transport routier de personnes
- > Décision n° 2020-007 du 23 janvier 2020
Transmission d'informations par les exploitants d'aménagements routiers
- > Décision n° 2020-068 du 15 octobre 2020
Tenue du registre public des gares routières et autres aménagements routiers prévu à l'article L. 3114-10 du code des transports

Dispute settlement

- > Décision n° 2020-042 du 16 juillet 2020
Règlement du différend entre la société FlixBus France et la société Transdev Mont-Saint-Michel relatif au tarif d'accès du parking P7 du Mont-Saint-Michel



Data collection

- > Décision n° 2020-031 du 14 mai 2020
Modification de la décision n° 2018-012 du 19 février 2018 relative à la transmission d'informations par les concessionnaires d'autoroute et par les sociétés visées à l'article L. 122-32 du code de la voirie routière
- > Décision n° 2020-067 du 15 octobre 2020
Transmission régulière à l'Autorité de régulation des transports des documents de la consultation, des candidatures et des offres des marchés de travaux passés par les concessionnaires d'autoroutes

Infringement proceedings

- > Décision n° 2020-013 du 30 janvier 2020
Clôture de la procédure en manquement ouverte à l'encontre de la société Atlandes pour manquement aux obligations de communication de documents et d'informations prévues par les articles L.1264-2 du code des transports et L. 122-31 du code de la voirie routière, ainsi qu'aux obligations prévues par la décision de l'Autorité n° 2018-006 du 31 janvier 2018 relative à la fixation du contenu du dossier de présentation des projets de marchés et d'avenants passés par les concessionnaires d'autoroutes

Opinion on draft regulatory documents

- > Avis n° 2020-058 du 10 septembre 2020
Projet de décret relatif aux obligations s'appliquant aux conventions de délégation autoroutières en matière de transition écologique ainsi que sur le projet d'arrêté modifiant l'arrêté du 8 août 2016 fixant les conditions d'organisation du service public sur les installations annexes situées sur le réseau autoroutier concédé

Procurement Commission of Motorway Concession Companies

- > Avis n° 2020-027 du 2 avril 2020
Composition de la commission des marchés de la société des autoroutes Paris-Rhin-Rhône (APRR)
- > Avis n° 2020-028 du 2 avril 2020
Composition de la commission des marchés de la société des autoroutes Rhône-Alpes (AREA)
- > Avis n° 2020-040 du 25 juin 2020
Composition de la commission des marchés de la société des Autoroutes et tunnel du Mont-Blanc (ATMB)
- > Avis n° 2020-047 du 30 juillet 2020
Composition de la commission des marchés de la société des autoroutes Paris-Rhin-Rhône (APRR)
- > Avis n° 2020-048 du 30 juillet 2020
Composition de la commission des marchés de la société des autoroutes Rhône-Alpes (AREA)
- > Avis n° 2020-059 du 17 septembre 2020
Composition de la commission des marchés de la société COFIROUTE

Verification of operating contracts for ancillary facilities

- > Avis n° 2020-024 du 19 mars 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique sur l'aire de la Chaberte sur l'autoroute A57 par la société ESCOTA
- > Avis n° 2020-029 du 30 avril 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique généraliste de l'aire de Meillac sur l'autoroute A10 par la société ASF
- > Avis n° 2020-038 du 18 juin 2020
Procédure de passation des contrats d'exploitation des activités de distribution de carburants, de restauration et de boutique sur les aires de Keskastel Est sur l'A4 (lot 1), Keskastel Ouest sur l'A4 (lot 2), Ressons Ouest sur l'A1 (lot 3), Saint-Léger sur l'A1 (lot 4), Souchez sur l'A26 (lot 6), Urvillers sur l'A26 (lot 7) et Vémars Est sur l'A1 (lot 8) par la société SANEF
- > Avis n° 2020-039 du 18 juin 2020
Procédure de passation du contrat portant sur la conception, la construction, l'exploitation, l'entretien et la maintenance d'installations annexes à caractère commercial assurant des activités de distribution de carburants, de restauration, de boutique généraliste et spécialisée de l'aire de services de DUTTLENHEIM (nom provisoire) sur l'autoroute A355 par la société ARCOS
- > Avis n° 2020-041 du 30 juillet 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique (Lot 1) sur l'aire de l'Esterel sur l'autoroute A8 par la société ESCOTA
- > Avis n° 2020-046 du 30 juillet 2020
Procédures de passation de contrats d'installations annexes à caractère commercial sur le domaine public autoroutier concédé de la société concessionnaire Autoroutes Paris-Rhin-Rhône (APRR)
- > Avis n° 2020-051 du 10 septembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique sur l'aire de l'Arc de l'Autoroute A8 (lot n° 1) par la société ESCOTA
- > Avis n° 2020-052 du 10 septembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique (Lot 1) sur l'aire Beausoleil sur l'autoroute A8 par la société ESCOTA
- > Avis n° 2020-053 du 10 septembre 2020
Procédure de passation des contrats d'exploitation des activités de distribution de carburants, de restauration et de boutique sur les aires de La Courneuve Est et Ouest sur l'A1 (lot 1), l'Obrion sur l'A31 (lot 2), Loisy sur l'A31 (lot 3), Saint-Rémy sur l'A31 (lot 5) et Sommesous sur l'A26 (lot 6) par la société concessionnaire des autoroutes du Nord et de l'Est de la France (SANEF)
- > Avis n° 2020-054 du 10 septembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de boutique, de restauration et de boutique de produits régionaux de l'aire de Saugon Est de l'Autoroute A10
- > Avis n° 2020-055 du 10 septembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique (Lot 1) sur l'aire de la Scoperta sur l'autoroute A8 par la société ESCOTA
- > Avis n° 2020-056 du 10 septembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de boutique et de restauration de l'aire de Toulouse Sud Nord de l'Autoroute A61
- > Avis n° 2020-057 du 10 septembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique sur l'aire de Vidauban Nord de l'Autoroute A8 (lot n° 1) par la société ESCOTA

- > Avis n° 2020-065 du 15 octobre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique sur l'aire de Brumath Ouest sur l'autoroute A4 (lot 2) par la société SANEF
- > Avis n° 2020-066 du 15 octobre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants et de boutique sur l'aire de Corbières Nord sur l'Autoroute A61 par la société ASF
- > Avis n° 2020-070 du 5 novembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique (lot n° 1) sur l'aire de Bréguières Sud sur l'Autoroute A8 par la société ESCOTA
- > Avis n° 2020-071 du 5 novembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique sur l'aire du Mas d'Agenais sur l'Autoroute A62 par la société ASF
- > Avis n° 2020-072 du 12 novembre 2020
Procédures de passation des contrats d'exploitation des activités de restauration et de boutique sur les aires de Saint-Ambreuil sur l'A6, Jonchets les Récompenses et Jonchets Grande Paroisse sur l'A5, Gevrey Ouest sur l'A31 et d'Écot sur l'A36 par la société Autoroutes Paris-Rhin-Rhône (APRR)
- > Avis n° 2020-073 du 12 novembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants et d'énergie, de boutique et de restauration sur l'aire des Haras ainsi que du contrat d'exploitation des activités de distribution de carburants et d'énergie sur l'aire du Domaine d'Harcourt, situées sur l'autoroute A28 par la société Autoroute de Liaison Seine Sarthe (ALIS)
- > Avis n° 2020-074 du 19 novembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique sur les aires de Baralle sur l'A26 (lot 1), de Champ-Roland sur l'A26 (lot 3), de Graincourt sur l'A2 (lot 4), de Hardivillers sur l'A16 (lot 5), de Mont-de-Nizy sur l'A26 (lot 6), de Rumaucourt sur l'A26 (lot 7) par la société SANEF
- > Avis n° 2020-075 du 19 novembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration (activité facultative) et de boutique sur l'aire de Saint-Eloi, située sur l'autoroute A25, par la société SANEF
- > Avis n° 2020-076 du 26 novembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique sur l'aire d'Écot sur l'A36 par la société Autoroutes Paris-Rhin-Rhône (APRR)
- > Avis n° 2020-079 du 3 décembre 2020
Procédure de passation du contrat d'exploitation des activités de distribution de carburants, de restauration et de boutique sur l'aire de Mornas-les-Adrets sur l'Autoroute A7 par la société ASF
- > Avis n° 2020-082 du 10 décembre 2020
Procédures de passation des contrats d'exploitation des activités de distribution de carburants et de boutique sur les aires d'Agen Porte d'Aquitaine sur l'autoroute A62 (lot 1) et de Port Lauragais Sud sur l'autoroute A61 (lot 1) par la société Autoroutes du Sud de la France (ASF)
- > Avis n° 2020-084 du 17 décembre 2020
Procédure de passation du contrat d'exploitation pour l'exercice d'une activité de station de bornes de recharge à très haute puissance ouverte au public pour véhicules électriques sur les aires de Jonchets Grande Paroisse (A5), Jonchets les Récompenses (A5), Dracé (A6), Gevrey Ouest (A31), Écot (A36), Pont Val de Saône (A39), Pont Chêne d'Argent (A39) et, en variante, les aires d'Achères Ouest (A6) et de Saint-Ambreuil (A6) par la société Autoroutes Paris-Rhin-Rhône (APRR)

Verification of amendments to motorway concession contracts

> Avis n° 2020-010 du 30 janvier 2020

Projet de deuxième avenant à la convention de concession passée entre l'État et la société Atlandes pour le financement, la conception, l'aménagement, l'élargissement, l'entretien, l'exploitation et la maintenance de la section de l'autoroute A63 entre Salles et Saint-Geours-de-Maremne approuvée par décret n° 2011-85 du 21 janvier 2011

> Avis n° 2020-023 du 19 mars 2020

Projet de huitième avenant à la convention de concession en vue de la construction, de l'entretien et de l'exploitation de l'autoroute Blanche B41 entre Gaillard et Le Fayet et de l'autoroute A42 entre Annemasse et Châtillon-en-Michaille approuvée par décret du 2 décembre 1977 et au cahier des charges annexé à cette convention



Airport charges

Infringement proceedings

- > Décision n° 2020-032 du 28 mai 2020
Mise en demeure de la société Aéroports de la Côte d'Azur pour non-respect des obligations lui incombant au titre de l'article L. 6325-1 du code des transports et des textes pris pour son application
- > Décision n° 2020-062 du 24 septembre 2020
Clôture de la procédure en manquement ouverte à l'encontre de la société Aéroports de la Côte d'Azur pour non-respect des obligations lui incombant au titre de l'article L. 6325-1 du code des transports et des textes pris pour son application

Economic regulation contract

- > Avis n° 2020-017 du 17 février 2020
Coût moyen pondéré du capital à prendre en compte pour le projet de contrat de régulation économique d'Aéroports de Paris (ADP) sur la période 2021-2025

Approval of airport charges

- > Décision n° 2020-001 du 9 janvier 2020
Demande d'homologation des tarifs des redevances aéroportuaires applicables aux aérodromes de Paris-Charles de Gaulle, Paris-Orly et Paris-Le Bourget à compter du 1^{er} avril 2020
- > Décision n° 2020-018 du 27 février 2020
Demande d'homologation des tarifs des redevances aéroportuaires applicables à l'aéroport de Bâle-Mulhouse à compter du 1^{er} avril 2020
- > Décision n° 2020-045 du 30 juillet 2020
Demande d'homologation des tarifs des redevances aéroportuaires applicables aux aérodromes de Nice-Côte d'Azur et Cannes-Mandelieu à compter du 1^{er} novembre 2020
- > Décision n° 2020-060 du 17 septembre 2020
Demande d'homologation des tarifs des redevances aéroportuaires applicables aux aérodromes de Nice-Côte d'Azur et Cannes-Mandelieu à compter du 1^{er} novembre 2020
- > Décision n° 2020-063 du 29 septembre 2020
Demande d'homologation des tarifs des redevances aéroportuaires de l'aéroport de Toulouse-Blagnac à compter du 1^{er} janvier 2021
- > Décision n° 2020-083 du 17 décembre 2020
Demande d'homologation des tarifs des redevances aéroportuaires applicables aux aérodromes de Paris-Charles de Gaulle, Paris-Orly et Paris-Le Bourget à compter du 1^{er} avril 2021
- > Décision n° 2020-085 du 22 décembre 2020
Demande d'homologation des tarifs des redevances aéroportuaires applicables aux aérodromes de Lyon-Bron et de Lyon-Saint Exupéry à compter du 1^{er} avril 2021
- > Décision n° 2020-087 du 28 décembre 2020
Demande d'homologation des tarifs des redevances aéroportuaires de l'aéroport de Marseille Provence à compter du 1^{er} avril 2021

Notes



The Authority's information booth



Sectoral reports (rail, coaches, motorways); half-yearly reviews; and public consultation summaries.

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