Case Study: Public Transport in Helsinki Metropolitan Area

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Public Transport in Helsinki Metropolitan Area

Executive Summary

By Yrjö Venna

The case has two parts. Part 1 describes the arrangement and financing of the public transport services for 900,000 inhabitants in the Helsinki metropolitan area. The statutory YTV Helsinki Metropolitan Council was responsible for traffic across the municipal borders. It bought services from a number of bus companies. The contracts were awarded without competition, and the ‘rise of costs’ was compensated. The ticket revenue covered two-thirds of the costs, and the rest was paid by tax revenue. The ticket prices were rising.

In 1994, the Council offered 20% of the regional services for competitive tendering. The prices dropped on the average by 33.2%. Through three additional rounds of auctioning in 1995 to 1996 all the services were auctioned. Annual costs were reduced by 29.2% and the quality of service improved. The ticket prices could be reduced. Proposals were made to extend the competitive tendering to the internal public transport of the municipalities as well.

Part 2 describes the escalating labour market conflict that arose due to the deteriorating job security of drivers. If their company lost a tender, the drivers were laid off due to lack of work. The company that got new business could employ them, but as new employees. The drivers lost benefits. The Union tried to negotiate with the employers but without results.

In 1995 some drivers took their employer to the court for breaching the Labour Code and the ECC Directive on safeguarding the employees’ rights in the event of the transfer of an undertaking. The district court ruled in favour of the drivers. The employer appealed to the Court of Appeal, and in 1997 that court confirmed the previous ruling. The employer appealed to the Supreme Court.

In the mean time the conflict escalated. 3300 drivers went on strike in the metropolitan area in February 1998, causing a total chaos in traffic. The strike was deemed illegal by the Labour Court, as the collective agreement was in force. The Rail Transport Union and the Air Transport Union threatened to go on strike in sympathy unless the dispute was solved. - Teaching notes are available.
1. Summary of the case

This case study has two parts: Part 1 describes the successful competitive tendering of regional transport services in the Helsinki metropolitan area in 1994 to 1998. 30% cost savings were achieved compared to the situation before competitive tendering. Also the quality of vehicles improved. Part 2 describes the escalating labour market conflict due to the deteriorating job security of the drivers that culminated in a public transport strike in winter 1998.

2. Immediate and basic issues

The immediate issues are the arrangement of competitive tendering on public transport services and the consequences to the employment conditions of the employees concerned.

The basic issues are related to the arrangement and financing of public services in the most economical and socially acceptable way. Related concepts are privatisation, contracting out, public procurement, and market testing. Relevant legal background is provided by the EEC Directive 77/187 on safeguarding of employees’ rights in the event of transfer of undertaking (attached to the case study).

3. Target audience and training context

The case was written in order to facilitate learning the complex considerations related to the application of the concepts of the so-called New Public Management. The target audience is primarily public servants who are responsible for service provision. A particular audience is formed by the civil servants in the Central and Eastern European countries who are responsible for public administration development and may be tempted to apply the market model uncritically and without regulatory control. The envisaged training environment is an in-service (management) training seminar.

The case may also be used in post-graduate courses on Public Management.
4. Proposed use of the case

The case is divided into two parts, and there is a tension between the parts. Part 1 contains a description of the actual arrangement of the competitive tendering and the results. This part seems to have a happy end. Part 2 is a description of escalating labour market conflict due to the deteriorating employment conditions of the employees. This part seems to lead to a catastrophe.

We propose to distribute the parts separately in succession.

We propose the use of the case in the didactic process as follows:

1. Introductory lecture on the concepts of public/private provision, contracting out, market testing, competitive tendering and procurement of public services (1 h 30 min)
2. Distribution of the Part 1 with instruction to assess
   - the general conditions for successful competitive tendering in the case, any constraints for such procedure;
   - how the savings were achieved, what might have been the competitive advantage of the successful companies;
   - the future development of the tendering conditions;
   - whether the competitive tendering should be extended to the internal public transport and to other regional services or not;
   - any disadvantages or dysfunctions of the tendering procedure.
3. Case discussion (following day, 30 min)
   - you may wish to pose the questions as proposed
4. Distribution of Part 2 with instruction to assess individually (20 min)
   - the arguments of both parties;
   - the interpretation of the Directive;
   - proposals for conflict resolution and future rules of the game. What is the responsibility of the purchaser for the social consequences?
5. Case discussion (30 min)
   - questions as proposed
6. Wrap-up and conclusions (10 min)
   - considerations on contracting out and market testing.

5. Further development

You may wish to know how the situation developed after the cutting-up point?
Part 1: Competitive tendering was extended to the internal public bus services of the City of Helsinki. In 1997, due to the threat of auctioning, the compensation to the Public Transport Agency was reduced by 10%. Following year 1998 the Public Transport Committee offered 15% of traffic for competitive tendering. The prices of the auctioned services went down a further 20%. The intention is to auction the rest of services. – A clause was added to the tendering documents urging the bidders to take into account the agreement between the labour market parties.

Part 2: An agreement was reached on Sunday 8 February 1998, just before the commencement of the sympathy strikes, that the newly employed drivers can carry certain acquired benefits in their ‘back-pack’ to their new employer.
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Part 1 and 2
good or bad decision making in the given situation. Some details were changed in order to protect the integrity of those involved.
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Part 1.

Situation before the reform

There are four municipalities in the Helsinki capital region responsible for public transport services for 900,000 inhabitants. The State Railways run local trains, and a number of bus companies operate bus services within the region across the municipal borders. Normally the Ministry of Transport controls the public transport across municipal borders by issuing licenses, but in the capital region the control of regional services has been given to the statutory YTV Helsinki Metropolitan Area Council. The four municipalities cooperate in this body.

The City of Helsinki is the largest of the municipalities with 540,000 inhabitants. It has its own municipal public transport agency authorized to operate within the city's territory.

Regarding regional transport, the Area Council did not produce the service but bought it from the operators. The share of bus-services between the operators developed gradually through the years, and some publicly or privately owned companies stabilized their market share. The Area Council awarded direct contracts without competition to the companies and bought the transport services from the operators on an agreed average price per driven kilometre. Compensation to the operators was negotiated annually, and the ‘rise of costs’ was covered almost automatically.

Each municipal council determined ticket prices in and from its territory, which was a major local political issue. Due to this decentralized procedure, regional bus fares varied and depended on place of residence. The revenue through the ticket fares covered about two-thirds of the costs of the transport, and the difference was covered by tax revenue. The tax-payers could make a deduction on their taxable income that equalled the cost from home to work using public transport.

In 1993 the Area Council was given authority to negotiate a uniform regional fare for the buses and local trains. This was an important achievement and increased equality among the inhabitants of different municipalities.
Controlling the costs

Rising costs and consequently higher ticked prices were a constant concern. The municipalities were not willing to increase their share of the subsidy, and the users of public transport complained about the rising fares. The political parties had different views on the issue: Some right-wing politicians wanted to reduce the subsidies and let the prices rise. The opponents claimed that this would hit the majority and benefit those wealthy people who travel by car from home to work, as they could make a bigger deduction in their personal taxation.

In 1994, after a political debate, the Area Council decided to test competitive tendering. The Council designed the ruts and the timetables, and the operators were invited to bid for the costs of operation. The costs were requested as follows: cost per kilometre, cost per hour, and cost per bus per day. The total cost of operation was a function of these components.

17 regional bus services (20% of the regional services and 15% of traffic) were auctioned. 23 companies submitted their bids, half of them from outside the region. The Council weighted the evaluation of the bids as follows:

<table>
<thead>
<tr>
<th>Component</th>
<th>Max. Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total price</td>
<td>70</td>
</tr>
<tr>
<td>Price of additional km</td>
<td>5</td>
</tr>
<tr>
<td>Fleet</td>
<td>15</td>
</tr>
<tr>
<td>Other quality aspects</td>
<td>10</td>
</tr>
</tbody>
</table>

The solvency of the company was determined by analyzing its last three balance sheets.

Surprising results

The organizers were taken by surprise: Prices dropped on the average of 33.2 per cent. The annual saving was FIM 16.2 million. Most of the auctioned services were taken over by a new operator. The contracts were awarded for three years.

The Council decided to share the saving equally between travellers, the municipalities and the development of the service. The regional ticket fares were reduced by 3%, the first time in history.

As the results were so good, the Area Council decided to gradually auction the rest of the services. Through three additional rounds of auctioning, all the remaining regional bus services were auctioned by 1996. Annual costs were reduced by FIM 105 million (29.2%). The benefits were shared between the municipalities and the travellers as before. The Area Council reduced the price of a 30-day regional ticket by 6% for 1997.
Observations

In addition to the decreasing cost level, the quality of the vehicles improved. Before the competition, the average age of buses was 4.9 years, and after the auctioning it was 3.2 years. This reduced also the emission levels as the new buses fulfilled the Euro II norms.

In the first auction in 1994, all 23 bidders were domestic companies. Due to the public procurement requirements of the EU, the calls for tender were published in the Official Journal of the European Communities. The interest of foreign companies started to grow, and they gradually bought bus companies in Finland. In 1998, two-thirds of the regional public transport in the metropolitan area was run by foreign-owned companies. The market share of a French-owned company was 37%, and that of a Scottish owned company was 36%. The two next biggest operators were owned by the City of Helsinki. Actually, the number of bidders went down in the successive rounds of auctioning as follows:

<table>
<thead>
<tr>
<th>Competitive tendering No:</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of bidders:</td>
<td>23</td>
<td>16</td>
<td>13</td>
<td>11</td>
</tr>
</tbody>
</table>

There were claims that the big foreign companies were dumping prices and ‘eating up’ municipal transport agencies and small domestic companies. According to a manager of an operator having 2% of the market: “The competition is very harsh for a small company, as investments in vehicles are so high.” A senior representative of the Area
Council denied the allegations saying, that “no dumping has taken place” and that foreign ownership “is currently no problem, we just are not accustomed to it.”

According to the winning bids the breakdown of costs was as follows:

The 29% cost saving were realized during the first rounds of competitive tendering, and the Area Council did not expect any further reductions in prices. They estimated that the costs would start to go up in line with the general development of wages and prices in the economy.

The results of auctioning regional public transport aroused great interest and contradicting views. There were proposals to extend the competitive tendering to the internal public transport of the City of Helsinki. This is currently run by a municipal transport agency and controlled by a Public Transport Committee. Fares are subsidised to about 45%. The representatives of the transport agency doubt the possibilities for major savings. They claim that compensation levels have been reduced already and that there is no 'give' in the prices. - In another city, Tampere, which has about 180,000 inhabitants, public transport is also run by a municipal agency. According to the Managing Director of the agency: “No-one here wants harsh competition, not even private operators. The budgets are tight enough. We try to save by rationalizing the operations.”
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Part 2.

Based on the experience of the first auctions in 1994, it became evident that the job security of the drivers was severely threatened. If the bid of their company was not successful, the company could legally dismiss them on the basis of lack of work. The company that run the new business needed new drivers and could employ the redundant drives. However, the drives were employed as new employees and lost benefits such as seniority increments, days of annual leave and pension benefits related to the length of service in the company. Some drivers had difficulties in getting loans from the bank as the bank claimed that they did not have a permanent job. The Transport Workers' Union tried to negotiate in order to protect job security in such cases, but without success.

During the competitive tendering in 1995, a company called Hakuna Line Oy lost a bid for seven services to a company called Qualitybus Oy. Consequently, the Hakuna Line Oy had to dismiss 45 drivers. The Qualitybus Oy employed 33 of these drivers as new employees and another 18 drivers from elsewhere.

The re-employed drivers were disappointed. With the assistance of the Trade Union two of the drivers took the Qualitybus Oy to the district court. They accused their employer of single-handedly changing the conditions of employment as determined in the employment contract. The litigants claimed that the question was of the transfer of an undertaking and that they should have been employed as former employees with the right to retain accrued benefits. They referred to the ECC Directive (77/187/EEC) of 1977 concerning safeguarding of employees’ rights in the event of the transfer of an undertaking. The employer denied that this case involved the transfer of an undertaking. He explained that the employer has the legal right to chose employees and employ them as new employees. In 1996 the district court ruled in favour of the drivers and ordered the employer to compensate the financial losses.

The Qualitybus Oy was dissatisfied with the court ruling and appealed to the Helsinki Court of Appeal. In October 1997 the court of appeal confirmed the previous ruling in favour of the drivers. Decisive for the application of the Labour Code and of the above mentioned Directive was that the transferred activity, i.e. operation of certain bus services, was an economic entity. The employer was dissatisfied and got a permission to appeal to the Supreme Court.
In the meantime, negotiations between the Trade Union and the employers did not advance as the employers were waiting for the court ruling. The Union threatened to go on strike unless there was an agreement by the end of November 1997. The Labour Market Arbitrator was called upon. The deadline was postponed to the end of January 1998, but no agreement was reached. The Labour Market Arbitrator said that: “The negotiations have been complicated by the fact that under the surface the issue concerns also other sectors than the transport sector. These sectors are also interested in the principles and the rules of the game if these are now to be agreed upon.”

The Union decided to go on strike in the capital region on Monday 2 February unless an agreement was reached. The chairman of the Transport Workers’ Union stated that: “We have tried to negotiate and there has been enough time to reach an agreement. We cannot stand it any more. The drivers do not go to work unless this has been solved once and for all.”

The strike started on Monday 2 February. Only the trains operated, but other public transport services came to a standstill. There was total chaos when hundreds of thousands of people tried to struggle to work or school. Roads were blocked by cars, and the situation was worsened by a heavy snowfall.

The following morning the leading daily wrote in its editorial: 'The competition of the bus services has brought many benefits to the municipalities and to the inhabitants. However, the drivers feel having lost in their job security to such an extent that they have gone on strike illegally in order to protect their rights. The question concerns the interpretation of the Labour Code. The employers do not care about the ruling of the Court of Appeal as they have appealed to the Supreme Court, where the case may take several years. It is easy to understand the drivers, as the deterioration of the job security is unreasonable. Also the companies have problems if they cannot cut labour costs. Savings should not be made at the expense of the quality of vehicles and traffic safety. There must be some limits on the consequences of competition. Certain costs must be accepted for safe and reliable public transport.'

3,300 employees were on strike. The negotiations between the parties went on continuously for 21 hour without progress. The employers claimed that the strike was illegal as the collective agreement was in force. They took the Union to the Labour Court for breaching the collective agreement. The Union Leader said: “We are not going to give up. Everyone is behind us. This issue must be solved now.”

The strike and traffic chaos continued on Thursday 5 February. There was no progress in negotiations. The employers accused the Union of demanding new benefits and denying the employers’ right to dismiss workers. The Union leaders accused the employers of operating a 'slave trade'. Public opinion was supportive towards the drivers. The Metropolitan Area Council also came under fire. It was blamed not taking the social aspects into account in setting the rules for competition. The Council defended itself and wanted to stay outside the conflict. It explained that it only purchased the services, and
that employment conditions were not its business. The Minister for Labour gave a statement urging for clarification of the regulations of the Labour Code. “The transfer of an undertaking must be specified. Disputes are taken to court too often. This becomes expensive for both parties”.

By Friday 6 February, the negotiations had come to a halt. On the request of the Transport Workers Union, the Board of the Rail Transport Union and that of the Air Transport Union convened and decided unanimously to threaten to go on strike in sympathy unless the dispute was solved before 4 a.m. on Monday morning. This would stop all public transport in the capital region and air transport throughout the country. According to one of the union leaders: “We see ourselves in their position. If it is allowed to abuse the conditions of employment as it has done in the case of drivers, we will be the victims pretty soon.” The President of the Employers’ Central Association harshly condemned the sympathy strikes. He urged the Trade Unions’ Federation to do its outmost to stop the illegal sympathy strike action, claiming that “The whole collective bargaining system is at stake”.

The Labour Court convened on Friday and discussed the employers’ litigation. Finally in the evening the Court ruled that the strike was illegal and ordered the Union to pay a compensation fine of FIM 350,000 to the employers.

The chaos and misery continued and the weather forecast promised –18 C for the weekend. The President of the Automobile Association wrote in his magazine of his hope for a speedy solution to the conflict. He praised a well functioning public transport system and said that: “Without a good public transport system also private driving is impossible.”