

Algemeen Bestuur
Stadsgewest Haaglanden
Postbus 66
2501 CB Den Haag

Den Haag, 9 april 2008

Dear Sir or Madam,

By means of this letter the Federatie Mobiliteit Nederland (FMN) and its members (Arriva-Nederland, Veolia Transport Nederland and Connexxion) would like to express their objections to the manner in which the Urban Region has arrived at the intention to award the municipal concession for the city of The Hague to HTM.

Firstly, we cannot understand how the Urban Region has come to the conclusion that HTM charges more favourable rates to the Urban Region than rates in line with market conditions, if this is not substantiated by any test. Not only has HTM been the only one to have been allowed to submit an offer, thereby eliminating any form of market mechanism, but apparently also any other form of test has been omitted.

Still worse is the fact that you even seem to fear a subsequent conformity test, as appears from the fact that you refuse to disclose the rates that HTM applies. That these rates are confidential to prevent commercial carriers from matching these rates in the tender for the regional concessions is a fallacy. This is confirmed by the inquiry carried out by order of the Ministry of Transport, Public Works and Water Management entitled "Benchmark Stedelijke OV-bedrijven" carried out by inno-V agency, dated 26 September 2007.

In her letter of 30 November 2007, reference VenW/DGP-2007/7106, to the Lower House the State Secretary for Transport, Public Works and Water Management states that the report shows that the productivity of municipal urban transport companies is approx. 20 % lower than that of private carriers.

Furthermore, you know that urban transport cannot be compared with regional transport on a one-on-one basis. Rates in line with market conditions only come about when urban transport is put out to tender.

Secondly, we find it objectionable that your Urban Region has already opted for a tender procedure with HTM and granting the concession to HTM, before Dutch law provides for such a choice. All the more so because none of the conditions under which European law allows *in-house contract awarding* to an *in-house operator* seems to have been observed by Haaglanden. This would seem to make the fear of unfair competition and disturbance of the public transport market in the Netherlands concrete.

As soon as the acceptance of the offer from HTM by your Urban Region results in the concession being granted to HTM, FMN will also on the basis of administrative law object to this, in addition to the individual members who have already indicated that they will be taking legal action. However, for the moment FMN already thinks to have sufficient arguments available to draw the attention of the European Commission to the state of affairs and to request the Commission to investigate both the correctness of the implementation of the PSO regulation in the Netherlands and in particular the preconditions under which HTM is allowed to operate the municipal concession for Haaglanden, and the presence of unlawful state aid in favour of HTM. Please find enclosed the letter that we sent to the European Commission today.

We trust that this information will be of service to you.

Yours faithfully,

A.B. Hettinga *RA*
Chairman of the Federatie Mobiliteitsbedrijven Nederland