

EU regulation from the operators view

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**European Centre of Enterprises with Public Participation
and of Enterprises of General Economic Interest**

- European representation of Public Sector enterprises
- European employers' organisation representing Public sector in the Social Dialogue
- Promoter of services of general interest at European level

Altogether the public sector represents about 46 Million employees within the EU, a quarter of the total employed



**Leipziger Verkehrsbetriebe (LVB) GmbH
(Leipzig Transport Company)**

- LVB provides most public transport services (except heavy rail) within the Region of Leipzig (Germany)
- second largest tram network in Germany (319,4 km)
- 2354 employees (2006)
- 125,3 Million customers (2006)

Facing the challenge

COM (2005) 319 final

Entry into force by October/November 2009

Most likely results

- growing market transparency
- higher competition level
- split between market and non- market activities
- increasing bureaucratic reporting duties
- legal uncertainty about kind of contract and status “internal operator”

therefore

- a lot of business for the ECJ

1. Am I a market player or not?

- in or out of the market
- tendering or In- house
- reciprocity or not
- business expectations
- expectation of the owner(s)

2. Wanna go In- house?

- ownership (PPP clause)
- operating area
- subcontracting
- consideration of ECJ decisions depending on kind of contract
- reliability of your authority
- requirement of publication in advance,
therefore

**Check your internal status carefully -
your competitor will do that too!**

3. When is which regime to be applied?

- service contract under 2004/17 /18
- service concession (new regulation announced for 2008)
- individual legislative or regulatory act
- Bus, Tram, Metro, heavy rail, mixed type

4. Do you know the content?

- mandatory content of the contract gives lot of flexibility – make use of it (both authority and enterprise)
- determination of costs for service obligation
- clear distinction between compensation and other business/ state aid
- provision of figures regarding reports/transparency duties

Lost in Transition

-lack of clarification if collision between regulation and national law

Notice:

compensation rules are immediately in force in 2009



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