LTFRB MEMORANDUM CIRCULAR NO. 92-009

DATE : 17 February 1993
SUBJECT : Implementing Guidelines on the
DOTC Department Order No. 92-587
Defining the Policy Framework for the
Regulation of Transportation Services

Pursuant to DOTC Department Order No. 92-587 dated 30 March 1992, defining the policy framework for the regulation of transport services, the following guidelines in implementation thereof are hereby promulgated:

I. Scope of Coverage

The policy guidelines set forth under this Memorandum Circular shall be limited to persons, corporations firms or associations owning and/or operating public land transportation services to carry passengers and goods.
II. Definition of Terms

For purposes of this Memorandum Circular, the following words or phrases shall have the meanings/definitions as herein below:

a. **Certificate of Public Convenience (CPC)** - an authorization issued by the LTFRB for the operation of land transportation services for public use as required by law.

b. **Filipino Citizenship** - that the applicant for a CPC is a citizen of the Philippines or a corporation, partnership, association or joint-stock company constituted and organized under the laws of the Philippines, of which at least sixty (60) percent of its capital stock or paid-up capital belongs entirely to Philippine citizens.

c. **Financial Capability** - the capability of the applicant/operator to establish/initiate/maintain/sustain proposed/existing operations of the service and to meet claims arising from accidents.

d. **Public Interest** - the benefit for all the people and the promotion of the general welfare through increased range of service levels and fares offered to passengers and the enhancement of healthy competition.

e. **Authorized Route** - the approved pair of origin and destination points linked by a chain of roads or streets open to public use over which the service is authorized to operate.

f. **Monopoly** - the existence or operation of one (1) franchised operator or a group of franchised operators in a particular route whose actions or practices result in a lack of effective competition (which has the effect of a monopoly).

g. **Developmental Route** - route that handles light density traffic. This area is necessarily developmental, either because, (1) there is no existing authorized operator serving the unserved feeder portion of at least 20 kms. distance that links to the presently served trunkline route, (2) It has residential, tourist, commercial/industrial potentials, or (3) it needs developed areas for its subsistence and development. Initial operation along this route is economically, politically and socially desirable, but not necessarily financially viable.

h. **Franchise Operator** - the holder/grantee of a valid and subsisting CPC issued by the LTFRB.

i. **Prior Operator** - the priority of an existing authorized operator in a route and in each of the segments of the route by virtue of a CPC.

j. **Prior Applicant** - the first applicant among the list of various applicants for a CPC accorded priority.
k. **Protection of Investment** - the protection and conservation of investments which have been made by operators.

l. **Withdrawal from Service** - the suspension of a service in its authorized route or portions thereof.

m. **Abandonment of Service** - the authorized suspension of a service by the transport operator/owner in its authorized route or portions thereof.

n. **Replacement/Substitution** - the substitution of lost and unrecovered, obsolete overaged, inefficient or dilapidated vehicle.

o. **First Class Service** - A non-aircon bus which has non-reclining upholstery seats and which can pick-up passengers along the route.

p. **Premier Service** - A non-aircon bus which has reclining seats and which does not stop along the route. It is a direct service from point of origin to destination.

q. **Addition/Expansion** - the introduction of an additional unit in a given route.

r. **Route Measured Capacity** - the theoretical basis of determining the demand for vehicles on any route.

s. **Quality of Service** - conditions and standards for the provision of services by public utilities to provide safe, adequate, efficient, comfortable and sustained service.

### III. Requisites for the issuance of a Certificate of Public Convenience (CPC)

Per Section 16(a) Chapter 11 of the Public Service Act (C.A. No. 145, as amended), the certificate may be granted: provided that the following requirements are met: [1] the applicant must be a citizen of the Philippines, or a corporation or co-partnership, association or joint-stock company constituted and organized under the law of the Philippines, 50 per centum at least of the stock or paid-up capital of which belongs entirely to citizens of the Philippines; [2] the applicant must be financially capable of undertaking the proposed service and meeting the responsibilities incident to its operation and, [3] the applicant must prove that the operation of the public service proposed and the authorization to do business will promote the public interest in a proper and suitable manner.

The issuance of a Certificate of Public Convenience is determined by public need. The presumption of public need for a service shall be deemed in favor of the applicant, while burden of proving that there is no need for the proposed service shall be the oppositor’s. Subject to the underlying principle that the interest of public service shall be paramount, the following guidelines shall govern the issuance of a Certificate of Public Convenience to all transport operators, to wit:

A. Entry Into and Exit Out of the Industry - The control in entry into and exit out of the Industry shall be liberalized to introduce and/or enhance the level of competition in terms of the rates charged and the quality of service rendered by land transportation operations as provided for by the Public Service Act.

1. On the entry into the industry

1.1 Top a Monopolized Route - There shall be a minimum of two (2) operators in any route. Routes presently serviced by only one (1) operator shall be immediately opened for entry to at least one (1) additional operator of the same or better mode/type of service.

1.2 To a Developmental Route - Operators that shall develop a route where there are no existing authorized operators/services shall be authorized to provide the required services. Operators on said route shall be afforded protection of investment for a maximum period of two (2) years, after which the link/route shall be opened for entry to at least one (1) additional operator.

1.3 To an Already Established Route Served by Franchised Operator(s) - the entry of an additional operator in a route presently serviced by several existing authorized operators shall be allowed in but not limited to any of the following cases:

1.3.1 The new entrant may be able to provide a more efficient and cost-effective, competitive service than the existing/authorized operators.

1.3.2 The new entrant shall introduce quality of service improvements and/or innovative/technologically-advanced services superior to those provided by existing/authorized operators.

1.3.3 The route warrants additional capacity and/or it has been determined that existing authorized
operators therein have not been sensitive to an increase in demand and/or offer to increase capacity only after another operator has offered to increase capacity.

1.3.4 New entrants will be admitted only where the action or practices of existing/authorized operators result in the lack of effective competition.

1.3.5 The existing authorized operators(s), as proven by LTRFB records or from other sources, shall have abandoned its/their operation.

1.3.6 The existing authorized operator(s) has/have been contumaciously violating the Public Service Law and/or the terms and conditions of its/their Certificate(s) of Public Convenience and/or LTRFB Rules and Regulations.

2. On the Abandonment/Withdrawal/Suspension of Service

2.1 By a total or partial abandonment/withdrawal/suspension of service in its authorized routes or portions thereof for a period of one (1) month or more, an operator may be declared by the Board to have forfeited his right to his certificate.

2.2 An operator shall be allowed to withdraw/suspend his services in the route provided that the operator files a notice of withdrawal/suspension with the LTRFB at least fifteen (15) days prior to such withdrawal/suspension.

3. On Vehicle Replacement/Substitution and Addition/Expansion of Services by an Existing/Authorized Operator - Existing/Authorized operators may increase their units through replacement with a bigger capacity and introduction of additional units after an application is filed with and approved by the LTRFB.

4. Flexibility to Operate on More Than One Route - Change/Amendment to the authorized routing pattern of provincial buses may be allowed by an existing authorized operator subject to conditions set under LTRFB Memorandum Circular No. 91-007.

5. On Terminal Sharing - Operators shall be guided by the development of common/public terminals that may be adopted by the Local Government Units (LGUs) as provided under section 17 of RA No. 7160 (Local Government Code).

6. On Quality of Service - Quality and safety standards of services provided shall be continuously upgraded to support the overall goals of
public transport regulation. Improvement in standards shall be made in the following:

6.1 **Vehicle Insurance Cover** - The value for death and injury costs shall be upgraded to reflect compensation set by judicial rulings.

6.2 **Vehicles Designed and Roadworthiness Standards** - All public transport vehicles shall undergo the annual inspection of vehicles by the LTO under the Motor Vehicles Inspection Station (MVIS) System.

6.3 Separate examination systems for drivers of passengers and freight public utility vehicles shall be established in 1995.

**V. Rate and Fare Setting**

The control in pricing shall be liberalized to introduce price competition complementary with the quality of service, subject to prior notice and public hearing. Fares shall not be provisionally authorized without public hearing.

A. **On the General Structure of Rates**

1. The existing authorized fare range system of plus or minus 15 per cent for provincial buses and jeepneys shall be widened to +20% and -25% limit in 1994 with the authorized fare to be replaced by an indicative or reference rate as the basis for the expanded fare range.

2. Fare systems for aircon buses are liberalized to cover first class and premier services.

**VI. Determination of Financial Capability of CPC Applicant**

A. The issue of financial capability of applicants applying for more than five (5) units as a pre-condition to the issuance of CPC shall be construed as the concurrent satisfaction of two (2) basic financial requirements:

1. The availability of funds sufficient to establish/initiate and system operations.

The applicant is deemed financially capable to establish/initiate and sustain operations if its actual working capital is equal to or greater than the required working capital, where:

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\text{Actual working capital} = \text{Current Assets} - \text{Current Liabilities}
\]
Required Working Capital = Two months Operating, Administrative and Interest Expenses, Minus two months Revenue (qualified by the Average Aging Receivables)

Equity Investment = Equity (equivalent to 30% of rolling stock/units to be franchised)

2. In case where the applicant is deemed not financially capable of undertaking a service, the LTFRB shall require him to undertake an increase in working capital equivalent to the computed deficiency. Proof of such increase and the corresponding documents, under oath by the applicant, shall be submitted to LTFRB for recomputation/re-evaluation of the applicant’s financial capacity.

3. The availability of sufficient financial reserves to meet claims arising from accident. The applicant is deemed financially capable to meet claims arising from accidents if he secures a satisfactory insurance coverage or any other form of security acceptable to the LTFRB.

VII. Technical Evaluation

A. Basis for Technical Evaluation

1. The LTFRB shall ensure that vehicles to be utilized for public convenience are roadworthy and properly maintained to enable the public utility operator to provide safe, reliable, comfortable and efficient service.

2. The public utility operator assumes the responsibility for providing and maintaining safe, reliable and efficient service. On the other hand, the government shall allow only those vehicles that meet established physical, technical and service standards to operate.

3. Section 17(a) of the Public Service Act states that “The Commission (now LTFRB) shall have power without previous hearing subject to established limitation and exception and having provisions to the contrary: a) to require any public service to furnish safe, adequate and efficient service as the public interest may require and warrant; b) to enforce compliance with any standard rules, regulations, order or other requirements of this Act of the Commission”.

B. Route Measured Capacity (RMC) - The RMC system as a basis in determining the demand for vehicles shall be used only as a guide or indicator in weighing the merits of each franchise application and not as
limit to the service offered upon satisfactory proof of public need in excess of the determined RMC.

VIII. Period of Validity of a Franchise

Period of Validity of CPC - The duration or period of validity of a CPC shall be five (5) years from issuance thereof.

IX. Penalties/Sanctions

Any violation of, or failure of the operations to comply with, the guidelines herein above set forth shall constitute ground for the disapproval of the application for Certificate of Public Convenience in addition to the penalties provided under the Public Service Act, as amended, and other relevant rules and regulations of the Board after due notice and hearing.

X. Repealing Clause

This Memorandum Circular supersedes any provisions of existing LTFRB rules and regulations which are inconsistent herewith, and are hereby repealed or modified accordingly.

XI. Effectivity

This Memorandum Circular shall take effect fifteen (15) days after its publication once in a newspaper of general circulation in the Philippines.


(Sgd.) DANTE M. LANTIN
Chairman

(Sgd.) NABOR C. GAVIOLA (Sgd.) PANAMBULA M. MIAMBISA
Board Member Board Member