

The Metropolis of Lyon has rolled out the "LyonFreeRide" system, which permits the circulation of autonomous shuttles. The movement of these shuttles is controlled and regulated based on user demand and on artificial intelligence software, which is able to account for certain parameters such as street width, number of users, and the presence of tags.

The principle of equality in public service, which is simply a corollary of the principle of equality before the law, requires the equal treatment of legally equal users. The case files show that the Saint-Cyr-au-Mont-D'or area, which has a population of 25,000, is served by 659 shuttles daily, while the Vaulx-en-Verin area, which has 201,293 inhabitants, is served by only 30 shuttles per day. It thus appears that not all inhabitants of the Metropolis of Lyon enjoy the same quality of service, a discrepancy that cannot be explained by weak demand for the service in certain districts. Indeed, the LyonFreeRide service does not treat all users equally. It has been observed that the number of shuttles passing and the number of users do not correlate; this constitutes an infringement of the principle of non-discrimination. Differential treatment between users of metropolitan public services therefore constitutes a violation of the equality of users not justified by any significant or objective difference in the status of the different users.

However, exceptions to this principle of non-discrimination may be admissible on certain grounds, namely reasons of public order, public security and public health, i.e., overriding reasons of public interest. It would appear to be in the public interest to prevent the degradation of the shuttles in view of the rare and polluting materials used in their construction. Indeed, it is in the interest of the Metropolis to guarantee quality service to the greatest number of users in consideration of the actual conditions of performance of the services, and to ensure the protection of travellers. There is an absolute obligation to ensure user safety. The case files show that this autonomous shuttle service has been assigned a public service mission, which would tend to justify elevating the public interest, and therefore passenger safety, over the principle of respect for absolute equal access to the service. However, while providing passenger transport in an autonomous shuttle constitutes a considerable technological advancement intended to be provided in complete safety both for the users and for the shuttles themselves, the public interest represented by this safety and justifying an infringement of the principle of non-discrimination must be related to the purpose of the service or to its form of operation. Each "discriminating" criterion used to operate the shuttle must be related to the service itself. It must be kept in mind that this necessarily involves the consideration of a certain number of factors, and that the presence of tags on surrounding buildings cannot be a sign of differential treatment of users because there is no link between their presence and the impossibility of operating the shuttles while guaranteeing safety. The safety guarantee criteria for users and shuttles factored in by the operating system are therefore faulty and discriminatory, and have no justification based on public interest or safety.

The expert report also highlights that the provision of service to all areas of the Metropolis is not a requirement in the algorithm used by the shuttles. It appears that the algorithm fails to meet the objectives for which the shuttle was established, namely to facilitate travel within the metropolitan territory by all inhabitants of the Metropolis. It then follows that the algorithm fails to provide users with equal access to a public service. The Metropolis government maintains that its precautionary principle helps prevent of any environmental damage, yet has not demonstrated that the ecological impact of replacing the shuttles would be so substantial as to justify the shuttles under-serving areas where statistics for the degradation of public property are elevated. It is not enough that users may not feel discriminated against; it is necessary to analyze whether the service itself is discriminatory, in concrete terms. A satisfaction survey cannot justify the dismissal of such an analysis. In this case, because the autonomous shuttle service does not serve certain areas, it is a source of indirect discrimination for the inhabitants of these areas. Cost optimization criteria generated by damaged autonomous shuttles cannot be the only criteria for the organization of the public service. Likewise, it is inadmissible to seek to optimize the cost of shuttle journeys to the detriment of the coverage provided across the territory of the Metropolis. Public services must be high quality, but their profitability is not imperative; equal access to public services is. Nevertheless, certain technical requirements, such as the need for the shuttles to recharge at Perrache, might legitimately justify the shuttles not serving areas located too far from that base. However, the expert inspector's report showed that the batteries have a range of 1000 km, allowing them to serve the whole of the Metropolis. There are also certain circumstantial imperatives, such as public protest actions reported by the Prefecture temporarily preventing the passage of the shuttles. Still, this must remain merely an exception.