



EUROPEAN COMMISSION
IMPACT ASSESSMENT BOARD

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Opinion

Title **Impact Assessments on the Recast of the First Railway Package (draft version of 17 June 2009)**

Lead DG **DG TREN**

1) Impact Assessment Board Opinion

(A) Context

Community legislation in the railway sector has been developing since 1991, principally through the adoption of a number of legislative packages aimed at the progressive integration of the market for rail transport services. In 1996 the White Paper on the railways highlighted the need to reform the sector more fully to give it a chance of success in the European internal market. The adoption of the first railway package (consisting of three directives) at the end of 2000 followed from the analysis of this White Paper. In May 2006 the Commission published a report on the implementation of the package, which constitutes (together with a number of other reports and Commission communications) an important reference point for this impact assessment.

(B) Positive aspects

The report uses graphs, tables and diagrams to enhance the presentation of the problems, objectives and impacts related to this initiative.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

General recommendation: The IA report needs much more clarity on the nature and magnitude of the underlying problems (related to fragmentation, competition barriers and lack of modernisation on the railway market) and which of them this initiative is intended to address. It requires significant further work on several key issues. First, it should clarify the extent to which the objective is to go beyond a clarification of the current provisions of the first railway package and to introduce

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new measures. Where this is the case, it should clarify which problems these would address and provide evidence for their existence and magnitude. Second, the report should analyse alternatives for all new measures which were not covered by previous impact assessments. Thirdly, the report should clarify the methodology used for calculating the impacts, and in particular the link between the measures proposed and their effects. Finally, administrative burdens should be calculated using the EU Standard Cost Model.

DG TREN agreed to improve the IA report along these lines during the meeting with the IAB. Given the scope of the changes necessary, the Board requests that DG TREN submits a revised version of the IA report on which it will produce a new opinion.

(1) Provide more clarity on the nature and magnitude of the underlying problems and the scope of the initiative. The report should clarify the extent to which the objectives of this initiative relate to the clarification of existing provisions and to which extent they go beyond to cover new substantive issues. This division should be clearly presented in the problem definition. As regards the new substantive issues, the report should provide convincing evidence to illustrate their nature and magnitude (e.g. illustrative examples, studies, reports, etc.). Rather than in terms of legislative gaps, they should be discussed from the perspective of rail market players. All the problems should be clearly linked to the objectives and to the measures so that it is unambiguous which (set of) measures address which problems.

(2) Better justify the new measures by comparing them with possible alternatives. For each of the 27 measures, the report should distinguish clearly (i) those measures which clarify existing provisions, (ii) those which are new but have already been decided in another context and have been subject to an impact assessment (for example, the differentiation of track access charges in the Communication on rail noise abatement or multi-annual contracts in the Communication for rail infrastructure quality) and (iii) new measures for which no impact assessment has already been carried out. For this latter group of measures, the report should provide a clear justification for why they have been selected, if possible analyse alternative approaches and discuss subsidiarity aspects.

(3) Clarify the methodology used, and especially the link between the measures proposed and their effects. The report should - in a language accessible to a non-specialist - explain how the impacts (in particular those expressed in quantitative terms) have been derived from the proposed measures, the limits of the modelling exercise and the related degree of uncertainty as regards the computed impacts.

In this context, and with regard to the graphs in Section 6, the report should also clarify whether the assumed full enforcement of the existing provisions of the first railway package was reflected in the baseline scenario. The report should also explain why option B (soft law) has a particularly strong impact on operating costs of railway undertakings while its impacts on the modal share of rail freight transport, employment or environment are marginal with respect to the baseline. The report should be clearer why there is a difference in impacts between option C (directive) and D (regulation) considering that both options contain the same set of measures.

Given that this initiative will affect Member States differently (because, for example, of differences in the current levels of rail market opening), the report should discuss the

expected distribution of impacts among (groups of) Member States. It should also substantiate the claim that the initiative will lead to improved working conditions.

(4) Present the impact on administrative burdens in the format of the EU Standard Cost Model. For the calculation of administrative burdens, the report should use the format of the EU Standard Cost Model and present them separately for businesses and public administrations.

(D) Procedure and presentation

A serious effort should be made to bring the report closer to the 30-page limit (for example, by shortening and focusing better the sections on problems and objectives). The report would also benefit from consolidating different parts - such as the section on the legislative background and the section on recent and ongoing initiatives at EU level - into a policy context section. The summary of the views of stakeholders should be included in Annex I.

2) IAB scrutiny process

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