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CONTENTS

| | <u>page</u> |
|----------|--|
| 1 | ORGANISATIONS INVOLVED IN CARRYING OUT PUBLIC TASKS 9 |
| 1.1 | Federal Ministry of Transport, Construction and Housing (BMVBW)9 |
| 1.2 | Bundesländer/Public Transport Authorities10 |
| 1.3 | Federal Railway Office (EBA).....13 |
| 1.4 | Residual Special Asset (Bundeseisenbahnvermögen, BEV).....14 |
| 1.5 | Cross-sectoral Regulatory Body (Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen).....15 |
| 1.6 | Federal Cartel Office (Bundeskartellamt) - BKartA16 |
| 1.7 | Deutsche Bahn AG.....17 |
| 1.7.1 | Deutsche Bahn Netz AG (main infrastructure company).....19 |
| 1.7.2 | DB Station & Service AG22 |
| 1.8 | Authorities required by the 2 nd Railway Package.....23 |
| 2 | ORGANISATION OF PUBLIC TASKS25 |

| | | |
|----------|--|-----------|
| 2.1 | Separation, licensing and charging..... | 25 |
| 2.1.1 | Investigation of accidents (2004/49) | 25 |
| 2.1.2 | Safety certification of rolling stock and railway undertakings (2004/49)..... | 25 |
| 2.1.3 | Licensing of railway undertakings (95/18) | 26 |
| 2.1.4 | Track access (91/440)..... | 26 |
| 2.1.5 | Developing the capacity allocation framework (2001/14) | 27 |
| 2.1.6 | Publishing of capacity allocation framework (2001/14) | 28 |
| 2.1.7 | Setting of infrastructure charges (2001/14)..... | 28 |
| 2.1.8 | Collection of infrastructure charges (2001/14) | 30 |
| 2.1.9 | Publishing of charging framework (2001/14) | 30 |
| 2.1.10 | Appeal to decisions related to charging and capacity allocation (2001/14) .. | 30 |
| 2.2 | Interoperability and safety..... | 31 |
| 2.2.1 | Drawing up Technical Specifications for Interoperability (TSIs) (96/48 and 2001/16, art. 5) | 31 |
| 2.2.2 | Appointing of Member State representative in the Advisory Committee (96/48 and 2001/16, art 21) | 31 |
| 2.2.3 | Regulation of interoperability (96/48 and 2001/16, art 8 and 20) | 32 |
| 2.2.4 | Authorisation of (sub)systems (96/48 and 2001/16, art 14) | 32 |
| 2.2.5 | Control on (sub/system) operation and maintenance in accordance with regulations (96/48 and 2001/16, art 14) | 33 |
| 2.2.6 | Approval of Notified Bodies (96/48 and 2001/16, art. 20) | 33 |
| 2.2.7 | Assessment/control of Notified Bodies (96/48 and 2001/16, art. 20) | 34 |
| 2.2.8 | Assessment of conformity and/or suitability of (sub)systems for use (96/48 and 2001/16, art 13) | 35 |
| 2.3 | State contributions , competition and public service obligations | 35 |
| 2.3.1 | Monitoring of competition (1017/68, 2001/12 and 01/2003)..... | 35 |
| 2.3.2 | Enforcing of competition (01/2003)..... | 35 |
| 2.3.3 | Complaint handling related to competition (01/2003) | 36 |
| 2.3.4 | Evaluation of PSO claims (1191/69)..... | 37 |
| 2.4 | Statistics | 38 |
| 2.4.1 | Collection of financial data from railway undertakings (91/2003) | 38 |
| 2.4.2 | Collection of financial data from infrastructure managers (1108/70) | 39 |
| 2.4.3 | National contribution to Community statistics on rail transport to Eurostat (91/2003) | 40 |
| 3 | TRAIN OPERATING COMPANIES | 41 |
| 3.1 | List of train operating companies..... | 41 |
| 3.2 | Safety certificate..... | 41 |
| 3.3 | Market shares/transport volumes | 42 |
| Unit | | 42 |
| 4 | NGO'S | 43 |
| 4.1 | Industry associations | 44 |
| 4.2 | User Groups | 44 |
| 4.3 | Trade unions..... | 45 |
| 4.4 | Environmental groups | 46 |
| 4.5 | Others | 46 |
| 5 | FURTHER FACTS AND STATISTICS..... | 47 |

| | | |
|----------|---|-----------|
| 5.1 | Complaint statistics and information..... | 47 |
| 5.2 | Railway accident statistics | 47 |
| 6 | GRAPHICAL OVERVIEW | 49 |

GLOSSARY

| Abbreviation | German name | English name |
|------------------------|--|---|
| ORGANISATIONS | | |
| | | |
| | | |
| BMVBW | Bundesministerium für Verkehr, Bau- und Wohnungswesen | Ministry of Transport, Construction and Housing |
| DB AG | Deutsche Bahn AG | Deutsche Bahn plc (Group) |
| DB Netz AG | DB Netz AG | DB rail network plc |
| DB St&S AG | DB Station&Service AG | DB Stations and Services plc |
| EBA | Eisenbahn-Bundesamt | Federal Railway Office |
| Bundesnetzagentur | Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen | Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway |
| BKartA | Bundeskartellamt | Federal cartel Office |
| LEGAL FRAMEWORK | | |
| | | |
| GG | Grundgesetz | Constitution |
| AEG | Allgemeines Eisenbahngesetz | General Railways Act |
| EBO | Eisenbahn-Bau-und Betriebsordnung | Railway Construction and Operation Regulation |
| ESO | Eisenbahn-Signalordnung | Railway Signal Regulation |
| EBZugV | Eisenbahnunternehmer-Berufszugangsverordnung | Railway Operator Admission Regulation |
| EIBV | Eisenbahninfrastruktur-Benutzungsverordnung | Infrastructure Utilisation Regulation |
| EIV | Eisenbahn-Interoperabilitätsverordnung | Railways Interoperability Regulation |
| BSchwAG | Bundesschienenwegeausbaugesetz | Railway Infrastructure Upgrade Financing Act |

1 ORGANISATIONS INVOLVED IN CARRYING OUT PUBLIC TASKS

Public tasks are distinguished according to the following clusters of activities:

- Separation, licensing and charging
- Interoperability and safety
- Public budget contributions, competition and public service obligations
- Statistics
- Federal Transport Plan (Bundesverkehrswegeplan) which defines lists of lines for extensions and upgrades in the rail network (it provides a basic for a big part of the state contributions of the sector)

The following organisations are involved in one or more of these clusters of activities:

- Federal Ministry of Transport, Construction and Housing
- Competent authorities responsible for non-commercial services (Public Transport Authorities, either Bundes Lander or organisations of municipalities and boroughs)
- Deutsche Bahn AG
- DB Netz AG (main infrastructure owner and operator), subsidiary of Deutsche Bahn AG
- Deutsche Bahn Station & Services AG (stations operator and owner, subsidiary of Deutsche Bahn AG)
- DB Energy GmbH (main energy provider for rail transport, subsidiary of Deutsche Bahn AG)
- Federal Railway Office (Eisenbahn-Bundesamt, EBA)
- Residual Special Asset (Bundeseisenbahnvermögen, BEV)
- Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway (Bundesnetzagentur)
- Federal Cartel Office (BKartA)

1.1 Federal Ministry of Transport, Construction and Housing (BMVBW)

Since the Railway reform, the impact of the BMVBW on the operational issues of the rail sector has diminished. BMVBW's main function is preparing and developing the legal framework of the overall rail system and securing state infrastructure investment (new lines, upgrading and replacement of lines) that reflect the overall responsibility of the government (Art 87e (4) GG). The Ministry also regulates EBA through supervision and directives. However, there is no ministerial case-to-case direct intervention in the decision making of the EBA.

Organisation chart

www.bmvbw.bund.de

Income and expenses

Not relevant

Number of employees

Not relevant

Legal constitution

BMVBW is part of the national administration. It is headed by the Minister of Transport

Contact details for clients

www.bmvbw.bund.de

Autonomy of organisation

BMVBW is the federal Ministry in charge of transportation, construction and housing matters in Germany. The powers of the government are defined by law.

1.2 Bundesländer/Public Transport Authorities

The Bundesländer are responsible for the supervision of the non federal railways and the organisation of the whole regional (rail) transport. Public transport authorities of the Bundesländer (PTA) are competent authorities in the sense of art. 1 para. 5 of regulation (EEC) No. 1191/69.

Legal framework

The responsibility for the allocation of the PTA is given to the Bundesländer, § 1 para 2 Regionalisierungsgesetz (Regionalisation Act). For these duties the Bundesländer receive funds from the national budget which is fixed in §§ 5,8 of the Regionalisation Act. The PTA's are responsible for financing and contracting non-commercial local and regional railway services. In some Bundesländer, the administration of the Bundesland is PTA for the railway sector (e.g. Bavaria, Schleswig-Holstein, Brandenburg); in most of these cases a new agency was established. In the other Bundesländer, the responsibility for local and regional railway services was allocated at several associations of municipalities and boroughs (i.e. *Zweckverband* or *Verkehrsverbund* organisations; e.g. North Rhine-Westphalia; Saxony; Hessen).

Organisation

Each Bundesland has created its own organisation structure. Today, almost all regional authorities and executives are members in the nationwide working committee of public transport authorities in the rail sector ("Bundesarbeitsgemeinschaft der Aufgabenträger des Schienenpersonennahverkehrs - BAG-SPNV).

The following map shows the regional executives for non-commercial services in regional rail transport. (taken from www.bag-spnv.de). Between the authorities is a variety of internal organisation.



Income and expenses

The respective budget is – besides the overhead costs of the administration within the authorities - not only spent on rail, but also partly on non-commercial bus services, ticket-integration in the area of *Verkehrsverbund* organisations, as well as for subsidies, e.g. for renewal of buses, rolling stock, garages, workshops etc.

Number of employees

Not available.

Clients

The authorities/executives don't have clients in the usual point of view. They award contracts to operators and fulfil public tasks for the respective regional government or their shareholders.

Contact details for clients

Contact details of almost all authorities/executives can be found on www.bag-spnv.de.

Autonomy of organisation

Depending on the respective organisational framework for each competent authority their autonomy differs significantly. Some experience very strict control by the respective ministry of transport; others, in particular larger Verkehrsverbund organisations, have a larger autonomy in decision taking and preparation as well as in implementation. Generally all these organisations are dependent on the funds transferred from the National Budget to the Bundesländer-Budget and the respective proportion made available to the PTA.

Regularly the organisations are dependent on each other as their territory often doesn't correspond to the existing railway network, but to political borders. This leads to co-ordination problems and strong restrictions for contracting.

Award of contracts

Most of the non-commercial railway services are run on the basis of public service contracts according to art. 14 reg. (EEC) nr. 1191/69.

The German regulations for awarding contracts, in principle, provide for a public tendering procedure and the implementation of a transparent and competitive procedure as regards rail transport services. If certain conditions are met, a limited invitation to tender or a negotiated tender are permitted.

In connection with the awarding of contracts in the sector of local and regional passenger rail services, the Federal Government, in 2002, supplemented the Ordinance on the award of contracts. Therefore, the award of contracts for transport services in local and regional passenger transport by rail is, as from 1 December 2002 until 31 December 2014, also possible by way of a negotiated contract for long-term contracts if a substantial part of the services expires during the duration of the contract and a contract covering these services will be subsequently awarded within the framework of competitive bidding (§4 (3) of the Ordinance on the award of contracts). The new regulation of § 4 (3) of the Ordinance on the award of contracts, therefore, offers the public transport authorities a transitional period of 12 years during which it is possible to openly negotiate contracts if certain conditions are met and ensures the transition of the transport services contracts for local and regional passenger rail services to a competitive basis.

1.3 Federal Railway Office (EBA)

EBA is responsible for the ‘supervision’ and ‘authorisation’ in the rail sector. Its main tasks focuses on technical issues such as the responsibility for licensing railway companies, control of the safety of technical equipment or issues related to infrastructure planning and financing. As the state remains involved in financing the infrastructure of the railways, the EBA awards and supervises state contributions for infrastructure investment in railway infrastructure of railway infrastructure companies owned by the Federal Republic of Germany.

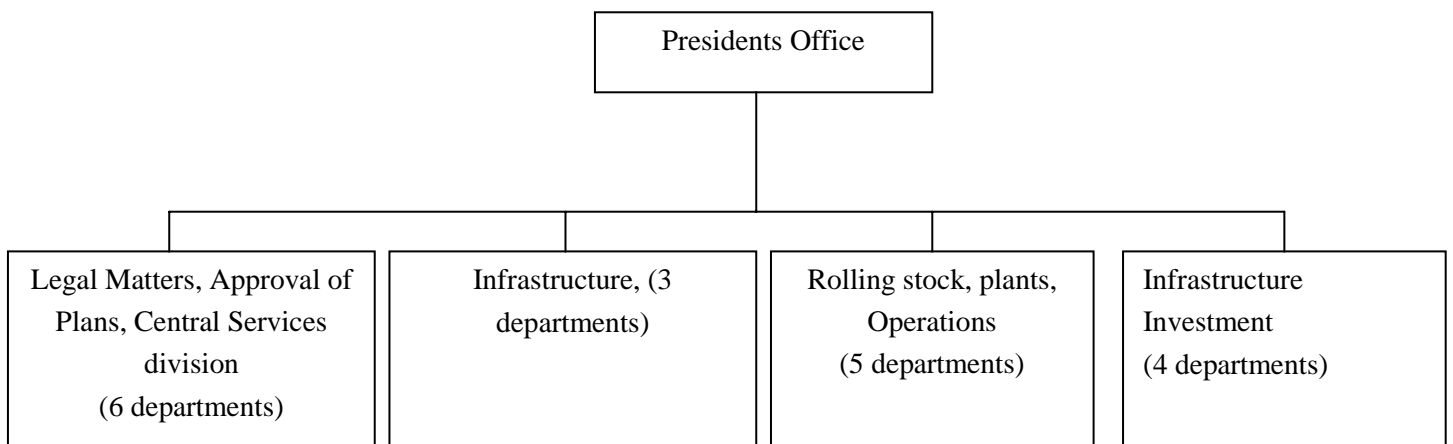
For 13 Bundesländer it exercises the supervision and licensing, being responsible for all other railways. In addition, a functionally independent Notified Body according to the “Interoperability Directive for the Trans European High Speed System” (directive 96/48/EC) was established at EBA, which is responsible for the EC-verification according to the Technical Specification for Interoperability.

In addition the EBA has got responsibility to regulate cases concerning discriminating track access. It is in this way a regulatory body for the railways sector although EBA did not use to have full regulative power in several issues of the sector.

The amended German Railways Act (entry into force April 2005) extends the regulatory competences: the regulatory powers now pertain to ex-ante as well as to ex-post control. In order to exercise efficient ex-ante control, the amended German Railways Act allows for early intervention during the period of timetabling.

With effect from 01.01.2006 all regulatory responsibilities of EBA will be transferred to the Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway (Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen), as provided for in the Railways Legislation Amending Act (entry into force on April 30, 2005). For details see 1.5.

Organisation chart (simplified structure)



EBA is based in Bonn and has 15 branch offices, one in each former DB/DR regional divisions. Each one of these offices mirrors the organisation of the headquarters.

Income and expenses

Not available

Number of employees

The EBA has a staff of 1245.

Legal constitution

The Federal Railways Office (EBA) has been established as part of the Railway Reform legal package (“Bahnreform”) in 1993, through the Railway Regulation Law (Gesetz über die Eisenbahnverkehrsverwaltung des Bundes) forming part of the legal package and becoming effective 1st January, 1994. It is an independent higher Federal authority which is responsible to the Federal Ministry of Transport.

Clients

Operators and infrastructure managers and the manufacturing industry are the main clients of EBA.

Contact details for clients

Federal Railway Office (EBA)

Eisenbahn-Bundesamt

Vorgebirgsstrasse 49,

D-53119 Bonn

Tel: +49 228 98260

Fax : +49 22898 26199

Web: www.eisenbahn-bundesamt.de/

Autonomy of organisation

EBA is regulated by the MoT via supervision and directives. The organisation is financed by the state budget. This structure makes the EBA subordinate to the MoT.

1.4 Residual Special Asset (Bundeseisenbahnvermögen, BEV)

The Bundeseisenbahnvermögen (BEV) is a special authority to which the employment of the former civil servants of Deutsche Bundesbahn was allocated. BEV lends civil servants at conditions of regular employees to Deutsche Bahn AG. BEV is also responsible for

administering and commercialising real estate that is not necessary for railway operations. The historic debt of former public railways had been assigned to BEV until 1999, when it was transferred into the general public debt.

Contact details for clients

www.bev.bund.de

1.5 Cross-sectoral Regulatory Body (Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen)

The 3rd Railways Legislation Amending Act (entry into force April 2005), provides for the setting up of a new regulatory agency: All regulatory functions with regard to network related industries will be pooled in a new cross-sectoral agency. To this end, the regulatory body for Telecommunication and Posts (Regulierungsbehörde für Telekommunikation und Post, Reg TP) will be restructured and renamed to Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway (Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen). All former regulatory responsibilities of EBA according to non discriminatory access to the network of the infrastructure managers will be transferred to the new authority. The Bundesnetzagentur, as regulatory authority, will be responsible for the compliance with the rules and regulations governing the access to the rail infrastructure. The changes will take effect from 01.01.2006.

Organisation chart

Not yet available.

Income and expenses

Not available

Number of employees

Not yet available.

Legal constitution

Clients

Operators and infrastructure managers will be the main clients of Bundesnetzagentur regarding the railways.

Contact details for clients

Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen

Tulpenfeld 4, 53113 Bonn

Germany

Phone +49 228 14-0

Fax +49 228 14-88 72

Web: <http://www.bundesnetzagentur.de/>

Autonomy of organisation

The Federal Ministry of Transport, Construction and Housing exerts the technical supervision of the Bundesnetzagentur as far as the monitoring of the compliance with the rules and regulations on the access to the rail infrastructure is concerned. The administrative supervision in this field can only be exerted in agreement with the Federal Ministry of Transport, Construction and Housing.

1.6 Federal Cartel Office (Bundeskartellamt) - BKartA

The Bundeskartellamt (Federal Cartel Office) is an independent higher Federal authority which is responsible to the Federal Ministry of Economics. The main task of the Bundeskartellamt is to apply the Act Against Restraints of Competition (GWB), which was enacted for the protection of competition and came into force on 1 January 1958.

In the railways sector, the BKartA has competencies for merger control, and for preventing anti-competitive practices in the rail sector as well. The BKartA is now able to take sector-specific decisions for the rail sector, and it has some parallel competencies related to network access with the EBA

Organisation chart

www.bundeskartellamt.bund.de

Income and expenses

Not relevant

Number of employees

The Bundeskartellamt has a staff of about 250, approx. 110 of whom hold senior positions and have degrees in law or economics (about 50% each).

Legal constitution

The Bundeskartellamt (Federal Cartel Office) is an independent higher Federal authority which is responsible to the Federal Ministry of Economics.

Clients

Mainly Operators but also authorities are the clients of the Office.

Contact details for clients

Federal Cartel Office

Kaiser-Friedrich-Str.16
D-53113 Bonn
Telefon: 0228-9499-0
Fax: 0228-9499-400
e-mail: info@bundeskartellamt.bund.de
web: <http://www.bundeskartellamt.de/>

Autonomy of organisation

BKartA does not receive any instructions/guidelines but those set up in the Act Against Restraints of Competition (GWB). However, there was an informal agreement between BKartA and EBA in 1998 for cooperation in competition case priority handling. If negotiations between competitors in the rail sector fail, the operators will refer to EBA in cases of technical issues disputes, (Article 14 (5) AEG). In cases dealing more with commercial issues, the complaint is handed over to the BKartA. In addition, the scope of powers of BKartA is limited to cases which have effects of abusive competition practices extending beyond the territory of one Bundesland. If the effect is limited to a single Bundesland only, the competition authority of that Bundesland will proceed against the infringements of competition law. BKartA is an independent body financed from the state budget.

1.7 Deutsche Bahn AG

The German Railway Group Deutsche Bahn AG (DB AG) was established in January 1994. It is the largest player in the German railway market with a dominant market position in different segments of the railway transport market. Based on the transport performance, the market share is (end 2004)

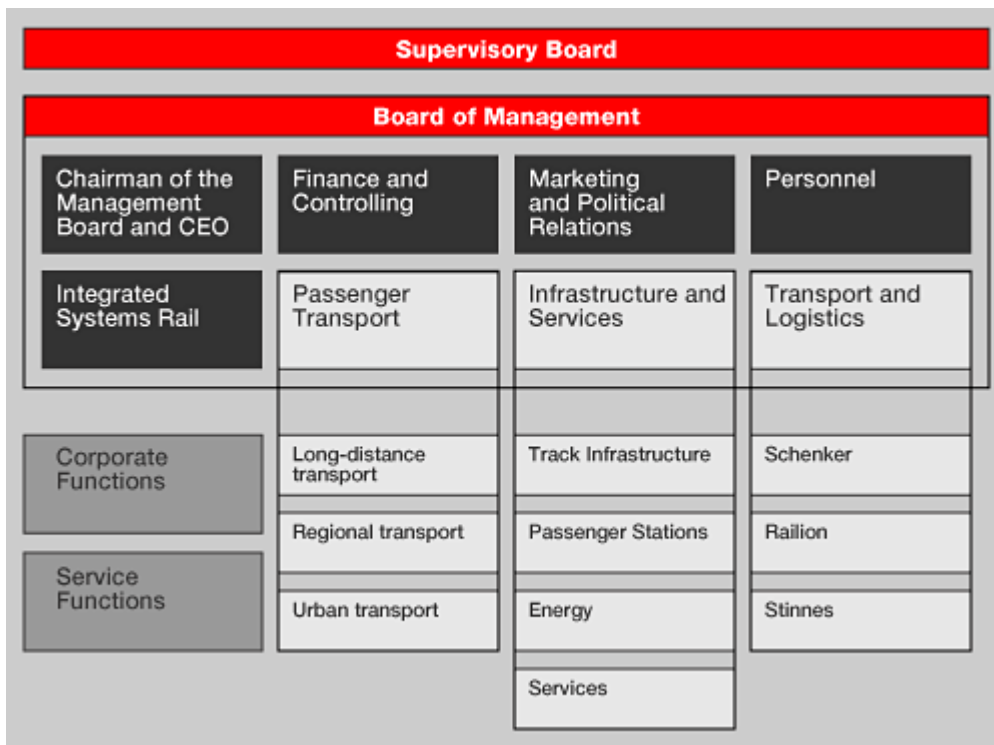
- 88 % for local and regional passenger services¹
- >99 % for commercial long distance and interregional passenger services
- 90 % for freight services.

DB AG' subsidiaries include several infrastructure companies (the most important being DB Netz AG, DB Station & Services AG) and several passenger and freight operators (the most important being DB Regio AG, DB Fernverkehr AG, Railion AG,). DB AG exercises direct control on its subsidiaries (with important restrictions as regards infrastructure access and charging issues).

Organisation chart

Organisation chart, April 2005

¹ Based on mileage since that is the basis for the contracts awarded by the Bundesländer/PTAs.



Income and expenses

The revenues of DB AG were EUR 23,963 million (increase of 4.1 % from 2003). DB AG's income after taxes was EUR 280 million in 2004 (compared with EUR -245 million in 2003). The gross capital expenditures amounted to EUR 7,232 million in 2004 (20.7 % decline to 2003).

Number of employees

In 2004 DB AG had 225,512 employees (7.1 % decline to 2003).

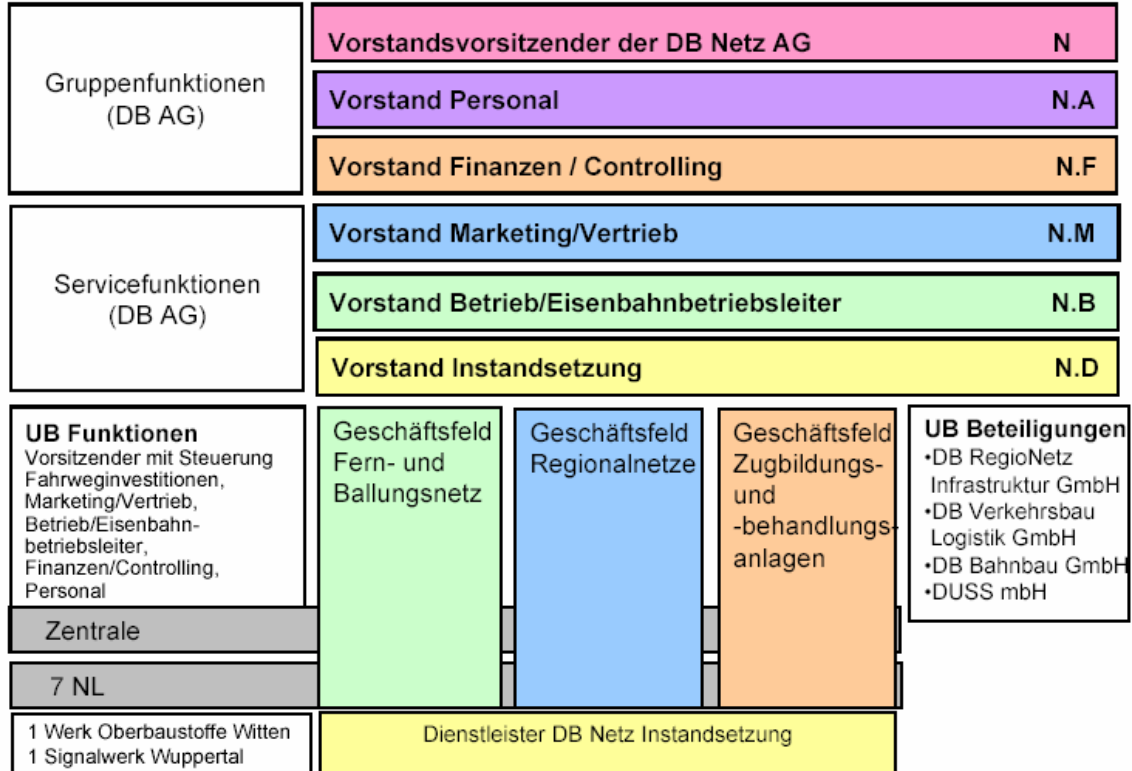
Legal constitution

Deutsche Bahn AG, after having gone through a number of restructuring steps, is today a holding public limited company. Deutsche Bahn AG with its main subsidiaries - separate public limited companies - is operating freight traffic, passenger traffic, passenger stations and infrastructure. DB AG is the only shareholder of the subsidiaries mentioned here. The Federal republic of Germany has so far remained the only shareholder of Deutsche Bahn AG.

Clients

Operators, passengers, freight transporters are the main clients of DB AG. Concerning non-commercial services the PTAs are clients, too.

Contact details for clients



Deutsche Bahn AG

Potsdamer Platz 2

10785 Berlin

Tel.: 0 30 / 2 97 - 6 11 31

Fax: 0 30 / 2 97 - 6 19 19

E-Mail: medienbetreuung@bahn.de

Web: <http://www.bahn.de/> and <http://www.db.de>

Autonomy of organisation

The German Railway Group DB AG was established in January 1994 merging the former DB and DR through the Federal Railway merger and reorganisations Act (Gesetz zur Zusammenführung und Neugliederung der Bundeseisenbahnen) and through the Foundation of DB AG Act (Deutsche Bahn Gründungsgesetz) as part of the railway reform legal package. The DBAG is a public limited company with shares owned by the state. All assets needed for the railway operation were allocated to DB AG. Rolling stock and infrastructure are now owned by Deutsche Bahn AG and its subsidiaries. The organisation is autonomous in its decision making process and is governed only by relevant railway legislation. DB AG is a large company with management independence. The owner exercises some control through the supervisory board of DB AG.

1.7.1 Deutsche Bahn Netz AG (main infrastructure company)

Organisation chart

Income and expenses

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The revenues of DB Netz AG were EUR 3,857 million (increase of 5.2 % from 2003). DB Netz AG's operating income after interest was EUR -200 million in 2004 (compared with EUR -330 million in 2003). The gross capital expenditures amounted to EUR 4,661 million in 2004 (25.2 % decline to 2003).

Number of employees

In 2004 DB Netz had 42,702 employees (2003: 46,092; 2002: 51,916; 2001: 52,089)

Legal constitution

DB Netz AG is a 100 % subsidiary of Deutsche Bahn AG (of which all shares owned by the state). It is in charge of operating 65,181 km of track/34,718 km of line (2004) owned by DB Netz AG and provides infrastructure capacity and services in return for track access charges to operators.

Clients

Operators ("internal" clients namely the operating subsidiaries of the DB Group as well as their competitors, the "external" clients) are the main clients of DB Netz considering public task.

*Contact details for clients**DB Netz AG**Service-Center Verkauf*

Bernhard Buchhagen

Tel: +49 69 - 265 31909 Fax: +49 69 - 265 31939

E-Mail: Bernhard.Buchhagen@bahn.de

Service-Center Jahresfahrplan

Rüdiger Weiß Tel.: 069 - 265 31960

Fax: 069 - 265 31909

E-Mail: Ruediger.Weiss@bahn.de

Service-Center Sonderfahrplan

Ingrid Steinicke

Tel.: 069 - 265 31970

Fax: 069 - 265 31946

E-Mail: Ingrid.Steinicke@bahn.de

web: http://www.db.de/site/bahn/de/geschaefte/infrastruktur_schiene/fahrweg/fahrweg.html

Autonomy of organisation

DB Netz AG is under control of Deutsche Bahn AG holding in its business activities. It requires approval from the chairman of the DB AG board of management and the financial director for any new major infrastructure projects (building, repairing etc.). The Investment committee also monitors spending of DB Netz. As regards all aspects of train path allocation and access charging, a complete independence of the responsible division of DB Netz AG from the holding company and all train operating companies has been established. This has been achieved by an amendment of the relevant contracts between the companies, a number of organisational changes and the creation of a compliance officer to safeguard the independence.

DB Station & Service AG

Organisation chart

Not available.

Income and expenses

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The revenues of DB Station&Service were EUR 870 million (increase of 2.2 % from 2003). DB Station&Service's operating income after interest was EUR 54 million in 2004 (compared with EUR 40 million in 2003). The gross capital expenditures amounted to EUR 619 million in 2004 (4.3 % decline to 2003).

Number of employees

In 2004 DB Station&Service had 4,969 employees (2003: 5,047; 2002: 5.309)

Legal constitution

DB Station&Service AG is a 100 % subsidiary of Deutsche Bahn AG (of which all shares owned by the state). It is in charge of operating 5,477 passenger stations (2003: 5,443; 2002: 5,580) belonging to DB and provides station capacity and services in return for station access charges to operators. It operates not only the station facilities necessary for passenger transport (mainly platforms, elevators, escalators, tunnels, entrance hall, passenger-information systems etc.) but also the commercial marketing of the station buildings concerning shopping and service facilities.

Clients

Operators are the main clients of DB St&S considering public task. In some regions DB St&S has concluded contracts with Public Transport Authorities concerning renovation and modernization of stations, co-founded with state aid.

*Contact details for clients**DB Station & Service*

Köthener Straße 2

10963 Berlin

Chairman of the Board: Wolf-Dieter Siebert

Web:

http://www.db.de/site/bahn/de/unternehmen/konzern/gesellschaften/infrastruktur__dienstleistungen/personenbahnhoefe/personenbahnhoefe.html

For contacts with clients DB Station&Service is divided into seven regional districts ("Regionalbereiche").

Autonomy of organisation

DB Station&Service AG is under control of Deutsche Bahn AG holding in its business activities. It requires approval from the chairman of the DB AG board of management and the financial director for any new major infrastructure projects (building, repairing etc.). The Investment committee also monitors spending of DB Station&Service.

1.8 Authorities required by the 2nd Railway Package

The second Railway Package demands for the establishment of a national safety authority and an independent investigation authority.

With the Eisenbahn-Bundesamt Germany already has an Authority, which is responsible for safety and will be responsible for safety after transposition of the Safety Directive in German law for the tasks of a Safety Authority. The Eisenbahn-Bundesamt is already responsible for approval and supervision tasks regarding to the Federal Railways. (see 1.3). The German Bundesländer are responsible for this tasks in the case of non-federal Railways.

The Eisenbahn-Bundesamt is also structured to function as an independent Accident Investigation Body.

2 ORGANISATION OF PUBLIC TASKS

2.1 Separation, licensing and charging

2.1.1 Investigation of accidents (2004/49)

Responsible organisation

Federal Railway Authority (EBA – Eisenbahn-Bundesamt)

Objectives, tasks and responsibilities

See section 1.4. for tasks of the EBA.

A separate, independent and objective department of EBA is responsible for the investigations.

- The department has a few different characteristics.

Procedure

The investigation of dangerous events and accidents proceeds in two phases:

1. investigation of the facts and circumstances at the place of the accident and to organise that any relevant data will not be destroyed during the period that the investigation takes place;
2. investigation of the cause on the basis of data and documents.

Legal basis of procedure

- General Railways Act (Allgemeines Eisenbahngesetz – AEG)

2.1.2. Safety certification of railway undertakings (2004/49)

Responsible organisation

Federal Railway Authority (Eisenbahn-Bundesamt – EBA)

Objectives, tasks and responsibilities

See section 1.3 for tasks of EBA.

Procedure

Up to now there exists no special safety certificate (document). The requirements of safety are part of the contract between IM and RU. After the implementation of the first railway package the safety certificates are issued by EBA. Guidelines for a new safety certificate have been drafted and are currently under discussion. Once discussions are brought to a conclusion, EBA will commence the procedure of issuing new safety certificates.

Legal basis of procedure

- General Railways Act (Allgemeines Eisenbahngesetz – AEG, amended 2005)
- Railway Construction and Operation Regulation (Eisenbahn-Bau-und Betriebsordnung - EBO)
- Railway Signal Regulation (Eisenbahn-Signalordnung – ESO)

2.1.2 Licensing of railway undertakings (95/18)*Responsible organisations*

Federal Railway Office (Eisenbahn-Bundesamt – EBA), Bundesländer

Objectives, tasks and responsibilities

See 1.4 for Tasks of EBA.

EBA issues licences for federal railways (as DB operators) and railway operators with registered seat outside of Germany. Other railway companies are licensed by the competent authorities of the Bundesländer; 13 of the Bundesländer have transferred this responsibility to EBA. The process of licensing is set out in the EbZugV regulation implementing dir. 95/18/EC into national law. A licence admits the operator the profession of railway operation so that the operator is qualified to provide railway services, either on a commercial basis or non-commercially based on public service contracts.

Procedure

EBA/Bundesländer grant licences for railway operators as well as for railway infrastructure companies. Requirements for the licence are reliability, financial capability and professional competence. The term of validity of this admission is 15 years for the operators and 50 years for the infrastructure companies or until the company does not fulfil one of the requirements.

Legal basis of procedure

- General Railways Act (Allgemeines Eisenbahngesetz – AEG) § 6
- Railway Operator Admission Regulation 1994 (Eisenbahnunternehmer-Berufszugangsverordnung – EbZugV, amended 2005)

2.1.3 Track access (91/440)*Responsible organisation*

Track access is guaranteed by § 14 of the General railways Act (AEG, amended 2005). Every public infrastructure manager must provide non-discriminatory access to its infrastructure. The Railways Utilisation Regulation (EIBV, amended 2005) provides a framework for access conditions. Exclusive or special rights do not exist.

The specific conditions of track and infrastructure access are set by the railway infrastructure company. These are for most of the network DB Netz (track) and DB St&S (stations). Abusive conditions are subject to control by both the regulator (EBA until 31.12.05 / Bundesnetzagentur from 01.01.06) and BKartA. BKartA is responsible for abuse of a dominant market position as well.

Objectives, tasks and responsibilities

The infrastructure managers (DB Netz, DB St&S) are obliged to give non-discriminatory access to the network and the stations as well as to ancillary services which are priced separately.

Procedure

- DB Netz gives access to the network to railway operators settled in Germany and EU (others need bilateral agreements, state conventions);
- Railway undertakings settled in Germany enjoy full access to the network for passenger as well as for freight transport; RU from other EU Member States are being granted access in accordance with Directive 91/440/EEC as amended by Directive 2001/12/EC.
- In addition, access is given to railway undertakings licensed according to the national law of a EU Member State or a Member State to the EEA [European Economic Area].... as long as the reciprocity for access to rail infrastructure of those railway undertakers is guaranteed for RU settled down in Germany;
- Access rights go further than required by EC law.

Legal basis of procedure

§ 14 of General Railways Act (AEG) 1993 (amended 2005).

Railways Utilisation Regulation (Eisenbahninfrastruktur-Benutzungsverordnung – EIBV, amended 2005)

2.1.4 Developing the capacity allocation framework (2001/14)

Responsible organisation

DB Netz, DB St&S (infrastructure companies), non-federal railways
Regulated by EBA until 31.12.05 / Bundesnetzagentur from 01.01.06

Objectives, tasks and responsibilities

The infrastructure managers are responsible for the allocation of capacity. Conflicts between not compatible interests of capacity allocation between two or more operators a solution must be found under involvement and supervision of the EBA (until 31.12.05 / Bundesnetzagentur from 01.01.06).

Procedure

Regular interval local and regional (public service) train services do not participate in bidding in the case of a conflict over train paths. In case of conflicts between interests of capacity allocation between two or more operators a solution must be found under involvement and supervision of EBA (until 31.12.05 / Bundesnetzagentur from 01.01.06) as all negative decisions that are planned by the infrastructure manager must be presented to the regulator beforehand. Similarly, all framework agreements, intended charges higher than on the basis of the network statement and all changes to the network statement/conditions of use are subject to a prior check by the regulator. Also, if the regulator suspects the procedures, charge schemes or other commercial conditions of rail infrastructure companies as discriminating, it investigates and can finally forbid such practices, as it happened already in the past.

Legal basis of procedure

Railways Utilisation Regulation (Eisenbahninfrastruktur-Benutzungsverordnung – EIBV, amended 2005).

2.1.5 Publishing of capacity allocation framework (2001/14)

The Network statement of DB Netz AG is available on the internet (http://www.db.de/site/bahn/de/geschaefte/infrastruktur_schiene/fahrweg/netzzugang/nutzungsbedingungen/nutzungsbedingungen.html).

Responsible organisation

Infrastructure companies - DB Netz, DB St&S (infrastructure managers) and other private or public companies managing railway infrastructure

Objectives, tasks and responsibilities

The Infrastructure manager is in charge of developing and publishing capacity allocation framework

Procedure

Procedure can be found in the published framework.

Legal basis of procedure

Railways Utilisation Regulation (Eisenbahninfrastruktur-Benutzungsverordnung – EIBV, amended 2005)

2.1.6 Setting of infrastructure charges (2001/14)

The infrastructure access charging schemes of DB Netz and DB St&S are available on the internet (http://www.db.de/site/bahn/de/geschaefte/infrastruktur_schiene/infrastruktur_energie.html).

Responsible organisation

Infrastructure companies - DB Netz, DB St&S (infrastructure managers) and other private or public companies managing public infrastructure

Objectives, tasks and responsibilities

The infrastructure company establishes the charges for the use of infrastructure. The main target of the infrastructure company is to maximise revenue and to minimise costs. The structure and the level of the charges must not be abusive. It is thought to be cost covering. It can exceed marginal costs.

Procedure

DB Netz:

The infrastructure charging system *Trassenpreissystem* (TPS) of DB Netz was first published in July 1994. ("Trasse" = the right to use a certain part of the infrastructure at a certain time, which is comparable with "slot" in aviation). Experience with the charging system since then has led to the revision of the system in 1998 and finally in 2001.

From 1998 the operator could choose between two possibilities ("two-level-system"):

- payment of a fixed price (after getting an "InfraCard") for a certain period (up to ten years)
- payment of a variable price ("VarioPreis") according to the number of trips

In 2001 the price system has been changed into a single-level system in which the basic fee, depending on the categories type of line and type of train (e.g. passenger/freight), is the same for all customers, independent of the infrastructure capacity used. This price is to be multiplied by special factors e.g. for weight, tilting-train etc.

Concerning discrimination by commercial conditions of track-pricing the EBA and the BKArtA can investigate and array modifications.

Concerning appeal and intervention in charging systems: see 2.1.99.

Charging schemes of other infrastructure companies haven't been so much in public focus yet.

Legal basis of procedure

- Railways Utilisation Regulation (Eisenbahninfrastruktur-Benutzungsverordnung – EIBV, amended 2005)

2.1.7 Collection of infrastructure charges (2001/14)

Responsible organisation

Infrastructure companies - DB Netz, DB St&S (infrastructure managers) and other private or public companies managing public infrastructure

Objectives, tasks and responsibilities

The infrastructure company collects its infrastructure charges.

Procedure

Operators using the infrastructure are invoiced by the infrastructure company on a periodical basis.

Legal basis of procedure

- Railways Utilisation Regulation (Eisenbahninfrastruktur-Benutzungsverordnung - EIBV)

2.1.8 Publishing of charging framework (2001/14)

Responsible organisation

Infrastructure companies - DB Netz, DB St&S (infrastructure managers) and other private or public companies managing public infrastructure

Objectives, tasks and responsibilities

The customers will receive a CD-ROM with the calculations of infrastructure charges, and it is also possible to calculate the infrastructure fees on the DB Netz AG website.

http://www.db.de/site/bahn/de/geschaefte/infrastruktur_schiene/fahrweg/trassen/software/trassenpreisauskunft_tpis.html Other infrastructure companies mostly send their framework on demand.

Procedure

Procedure can be found in the published framework.

Legal basis of procedure

Railways Utilisation Regulation (Eisenbahninfrastruktur-Benutzungsverordnung - EIBV)

2.1.9 Appeal to decisions related to charging and capacity allocation (2001/14)

Responsible organisation

EBA until 31.12.05 / Bundesnetzagentur from 01.01.06. Federal Cartel Office (Bundeskartellamt – BkartA)

Objectives, tasks and responsibilities

Safeguarding non-discriminatory access to the infrastructure

Procedure

- If the regulator (EBA until 31.12.05 / Bundesnetzagentur from 01.01.06) suspects the procedures, charging schemes or other commercial conditions of rail infrastructure companies as discriminating, it investigates and can finally forbid such practices, as it happened already in the past.
- In addition, after the amendment of the German Railways Act, the regulator (EBA until 31.12.05 / Bundesnetzagentur from 01.01.06) now has competences which will allow for ex-ante control, as early as the period of timetabling.
- Concerning discrimination by commercial conditions of track-pricing also the BKartA can investigate and array modifications. Basis is the Act Against Restraints of Competition (GWB) i.e. the provisions concerning the abuse of dominant positions
- Decisions by the regulator and BKartA can be reviewed by the courts

Legal basis of procedure

§ 14 AEG, amended 2005

Railways Utilisation Regulation (Eisenbahninfrastruktur-Benutzungsverordnung – EIBV, amended 2005)

Act Against Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen – GWB)

2.2 Interoperability and safety

2.2.1 Drawing up Technical Specifications for Interoperability (TSIs) (96/48 and 2001/16, art. 5)

According to Art. 6 of these Directives the responsibility of drawing up the TSI was the task of the "joint representative body" (AEIF) and is now after the amendment by Directive 2004/50 the task of the European Railway Agency. The German railway industry and the operators and infrastructure managers are involved in this process and support the developing of the TSI in the past as well as in the future.

2.2.2 Appointing of Member State representative in the Advisory Committee (96/48 and 2001/16, art 21)

Responsible organisation

Ministry of Transport, Construction and Housing (Bundesministerium für Verkehr, Bau- und Wohnungswesen - BMVBW)

Objectives, tasks and responsibilities

Not available

Procedure

Not available

Legal basis of procedure

Not available

2.2.3 Regulation of interoperability (96/48 and 2001/16, art 8 and 20)

Responsible organisation

Federal Railway Office (Eisenbahn-Bundesamt – EBA)

Objectives, tasks and responsibilities

To realise harmonised interoperability between the EU Member States and to prevent adoption of new national rules in connection with new projects that might increase the heterogeneity of the present system, except for justified derogations.

Procedure

Regulated in national law (see next point).

Legal basis of procedure

Railway Interoperability Regulation (Eisenbahn-Interoperabilitätsverordnung – EIV) § 2 and § 3.

Railway Interoperability Regulation for conventional rail (Konventioneller-Verkehr-Eisenbahn-Interoperabilitätsverordnung – KonVEIV, § 9).

2.2.4 Authorisation of subsystems (96/48 and 2001/16, art 14)

Responsible organisation

Federal Railway Office (Eisenbahn-Bundesamt – EBA)

Objectives, tasks and responsibilities

See Art. 14 of the Directives 96/48/EC and 2001/16/EC.

Procedure

The authorisation has to be requested on paper, submitting the EC declaration of verification according to art. 18 of the EC-Directive in connection with the Annexes V and VI and if

required the EC declaration of conformity or suitability for use according to art. 13 paragraph 1, 2, 3 in connection with Annex IV.

Legal basis of procedure

Railway Interoperability Regulation (Eisenbahn-Interoperabilitätsverordnung – EIV) § 2 art.1 and Railways Interoperability Regulation for conventional rail (Konventioneller-Verkehr-Eisenbahn-Interoperabilitätsverordnung – KonVEIV) § 4.

2.2.5 Control on subsystem operation and maintenance in accordance with regulations (96/48 and 2001/16, art 14)

Responsible organisation

Federal Railway Office(Eisenbahn-Bundesamt – EBA)

Objectives, tasks and responsibilities

- testing of correct operation and maintenance of the subsystems infrastructure, energy supply, rolling stock as well as control and command and signalling
- assessment of the elements of the parameters relating to the quality monitoring system processes that concern the railway undertakings and/or the infrastructure managers as laid down in the high speed-TSI Operation by EBA as a notified institution

Procedure

Regulated in national law.

Legal basis of procedure

Allgemeines Eisenbahngesetz, § 5.

2.2.6 Approval of Notified Bodies (96/48 and 2001/16, art. 20)

Responsible organisation

Federal Railway Office (Eisenbahn-Bundesamt – EBA)

Objectives, tasks and responsibilities

§ 2 Nr. 5 EIV allocates to the EBA.

Acceptance, withdrawal or countermand of acceptance as well as surveillance of notified bodies. According to § 3 EIV it is necessary to obtain prior agreement of the Ministry of Transport, Construction and Housing for a decision about an acceptance.

For the perception of the duties of the acceptance-authority an Unit 10 called „Anerkennungsstelle Interoperabilität“ (acceptance body for interoperability) has been founded within the department 1 of the EBA.

Procedure

Set out in the national Railway Interoperability Regulation (Eisenbahn-Interoperabilitätsverordnung (EIV)) and an Administrative Order to Execute the Tasks of the EIV (Organisationserlass zur Wahrnehmung der Aufgaben nach der Eisenbahn-Interoperabilitätsverordnung (EIV)) by the EBA.

Unit 10 „Anerkennungsstelle Interoperabilität“ is subordinated to the administrative supervision of the president of the EBA and the technical supervision of the Ministry of Transport, Construction and Housing (Bundesministerium für Verkehr, Bau- und Wohnungswesen).

Legal basis of procedure

Railway Interoperability Regulation (Eisenbahn-Interoperabilitätsverordnung – EIV) § 3 art.2

2.2.7 Assessment/control of Notified Bodies (96/48 and 2001/16, art. 20)

Responsible organisation

Federal Railway Office (Eisenbahn-Bundesamt – EBA)

Objectives, tasks and responsibilities

§ 2 Nr. 5 EIV allocates to the EBA the duties of acceptance of notified bodies as well as the withdraw of their acceptance and their control. The acceptance requires the approval by the Ministry of Transport, Construction and Housing.

For the perception of the duties of the acceptance-authority an Unit 10 called „Anerkennungsstelle Interoperabilität“ (acceptance body for interoperability) has been founded within the department 1 of the EBA.

Procedure

Set out in the national regulation of interoperability of the railways („Eisenbahn-Interoperabilitätsverordnung EIV) and the administrative order (Organisationserlass zur Wahrnehmung der Aufgaben nach der Eisenbahn-Interoperabilitätsverordnung (EIV) durch das Eisenbahn-Bundesamt) which allocates the responsibility for administrative execution of all duties concerning interoperability at the EBA.

Legal basis of procedure

Railway Interoperability Regulation (Eisenbahn-Interoperabilitätsverordnung – EIV) § 3 art.2

2.2.8 Assessment of conformity and/or suitability of Interoperability constituents for use (96/48 and 2001/16, art 13)

Responsible organisation

Notified Bodies; in Germany until now only Eisenbahn-Cert (EBC) which is an independent unit inside EBA.

Objectives, tasks and responsibilities

§ 3 Abs. 1 Nr. 1 of the EIV and § 10 of the KonVEIV allocates the tasks of the assessment of conformity and /or suitability of Interoperability Constituents according to Art. 13 Abs. 1 – 4 as a task of the notified bodies.

Procedure

Set out in Art. 13 and in the relevant TSI and transferred into national law with the above mentioned regulations.

Legal basis of procedure

See above.

2.3 State contributions , competition and public service obligations

2.3.1 Monitoring of competition (1017/68, 2001/12 and 01/2003)

Responsible organisation

Federal Cartel Office (BKartA)

Objectives, tasks and responsibilities

Federal Cartel Office monitors competition levels..

Procedure

The Cartel Office will monitor the situation in the market in order to enforce the ban on cartels, exercise merger control and control of abusive practices.

Legal basis of procedure

Act Against Restraints of Competition (GWB)

Statutes of the Cartel Office

2.3.2 Enforcing of competition (01/2003)

Responsible organisation

Federal Cartel Office (BKartA) and the Bundesländer

Objectives, tasks and responsibilities

The main task of the Bundeskartellamt is to apply the Act against Restraints of Competition (GWB), which was enacted for the protection of competition and came into force on 1 January 1958. The Bundeskartellamt is, however, only responsible for enforcing the ban on cartels and exercising the control of abusive practices if the restrictive effect on competition extends beyond the territory of one Bundesländer. If the effect is limited to a single Bundesland only, the competition authority of that Bundesland will proceed against the infringements of competition law.

Procedure

The Bundeskartellamt has extensive investigator powers to enforce the ban on cartels (Sections 57 to 59 of the ARC). It may request information from enterprises, inspect business documents and, after obtaining a relevant order from a local court, search enterprises and seize evidence. If an illegal cartel is detected, the Bundeskartellamt may impose high fines on the enterprises involved.

In case of a proposed merger:

Once a proposed merger has been notified to the Bundeskartellamt, the competent Decision Division has a maximum of four months for deciding on the project. However, this four-month period is available only if the Division sends the so-called "one-month letter" within one month of receiving the notification. This letter informs the participating firms that the Division has initiated an examination of the concentration (main examination proceedings). The main examination proceedings are initiated if a further examination of the concentration is necessary. At this stage the Bundeskartellamt decides by way of a formal decision whether the concentration is cleared or prohibited. The clearance may be granted subject to conditions and obligations. Before prohibiting a merger, the Bundeskartellamt has to give the firms an opportunity to comment. The Decision Division fully informs them of the arguments in support of prohibition so that the firms are still able to put forward counter-arguments. There is a right of appeal to the Higher Regional Court in Düsseldorf against prohibitory decisions of the Bundeskartellamt. Appeals on points of law can be lodged with the Federal Supreme Court against decisions of the Higher Regional Court.

Legal basis of procedure

Act Against Restraints of Competition (GWB, last time amended in 2001)

2.3.3 Complaint handling related to competition (01/2003)*Responsible organisation*

Federal Cartel Office (BKartA) and the Bundesländer

As has been mentioned above, firms prohibited from merging have recourse to the courts if they disagree with the Bundeskartellamt's competition assessment. The courts may possibly rule differently from the Bundeskartellamt. However, like the Bundeskartellamt, the courts decide on competition grounds alone. Non-competition-based arguments may be advanced by firms when seeking authorisation for a concentration from the Federal Minister of Economics and Technology.

Note that there exists sector specific regulation in the EIBV (amended 2005) allocating regulatory powers to the EBA (until 31.12.05 / Bundesnetzagentur from 01.01.06) (see above).

Legal basis of procedure

Act Against Restraints of Competition (GWB) for BKartA

AEG (amended 2005) for EBA (until 31.12.05 / Bundesnetzagentur from 01.01.06)

2.3.4 Evaluation of PSO claims (1191/69)

Financing of local and regional railway services by the PTA as competent authority according to reg. 1191/69 is based on § 15 of the General Railways Act. The award of public service contracts (art. 14 reg. nr. 1191/69) is mandatory.

Responsible organisation

By law the "Bundesländer" are the responsible authorities, however, some of them decided by their own regional transport law that there are special organisations like Public transport authorities ("Verkehrsverbände") or other organisations, sometimes units of several counties which are joined to "Zweckverbände". These authorities are the contractors with the TOC.

Objectives, tasks and responsibilities

Not available.

Procedure

Awarding public service contracts is mandatory for local and regional railway transport.

A distinction is made between long distance and regional/urban transport: the railway branch is divided in:

- Schienenpersonennahverkehr ("SPNV") - short distance services with usually an average travelling time of less than 60 Minutes and non commercial, so these services get public money via PSO-contracts with the authorities
- Schienenpersonenfernverkehr ("SPFV"), which is commercial transport without public contributions (of course no rule without exception, but this would go too far in detail)

Usually the contracts awarded by pub. proc. last 10 years, some exceptions exist with much shorter intervals like 2 years, but this only happens under very specific circumstances.

The Bundesländer receive from the federal State a budget for the contracting of PSO with the railways. This financial measure is called "Regionalisierungsmittel". The total sum is 6.745

billion EUR (2002), this budget rises 1,5 % per year. Two thirds of this money are used only for service contracts. With the rest of the budget, the Bundesländer are free to decide whether to invest the money in e.g a line upgrade or a new station OR to use it for transport operations (consumptive). So it is difficult to say (unless by analyzing all authorities) how much money of this is indeed used for service contracts. But it is estimated to be at least 80 % of the total budget.

The PSO are partly awarded via public procurement procedures, most "SPNV" is operated by Deutsche Bahn based on direct awards.

There are also several contracts with competitors of DB and new entrants existing which did not follow a public procurement procedure. Today it can be estimated less than 15 % of the services are based on such procedures. The market share which is under competition is about 13 % (2004), as some of their contracts are awarded without tendering and DB on the other hand is operating also some lines which they won after a procurement procedure, this is plausible.

Total pkm in Germany in 2004 amounted to 71.6 bn pkm, 69.,5 bn pkm of which were carried out by DB. Of the 71.6 bn pkm, 40.,1 bn pkm (56%) were carried out under PSO (37.,9 bn pkm by DB and 2.1 bn pkm (5.3%) by non-DB operators).

Legal basis of procedure

Award of contracts: § 15 AEG; §§ 99ff. GWB, VgV, VOL/A.

2.4 Statistics

2.4.1 Collection of financial data from railway undertakings (91/2003)

Responsible organisation

Federal Office of Statistics (Statistisches Bundesamt)

Objectives, tasks and responsibilities

Judgement of structure and development of railway transport

Procedure

The Federal Office of Statistics collects information from railway undertaking on periodical basis

Legal basis of procedure

Verkehrstatistikgesetz (VerkStatG)

2.4.2 Collection of financial data from infrastructure managers (1108/70)

Responsible organisation

Federal Office of Statistics (Statistisches Bundesamt)

Objectives, tasks and responsibilities

Not available

Procedure

The Federal Office of Statistics collects information from railway undertaking on periodical

Legal basis of procedure

2.4.3 National contribution to Community statistics on rail transport to Eurostat (91/2003)

Responsible organisation

Federal Office of Statistics (Statistisches Bundesamt)

Objectives, tasks and responsibilities

Not available

Procedure

Not relevant

Legal basis of procedure

Verkehrsstatistikgesetz (VerkStatG)

3 TRAIN OPERATING COMPANIES

3.1 List of train operating companies

Since the reform of the railway sector there is almost no competition between commercial passenger operators in the German rail market: two lines with low frequency run by Connex ("InterConnex"), one international night train run by GVG. The market share of DB AG competitors in non-commercial passenger services, on the other hand, has reached almost 12 % (12/2004, in train kilometres). Confidence in the function of the market seems to be steadily rising, with a number of large international transport groups (such as Arriva, Connex, Keolis and Transdev) having become active in the German market.

There is even more competition in the German rail freight market due to the specifics of the market (open access and direct contracts between freight operators and freight customers without any public transport authority involved). Although Railion (former DB Cargo) is still the dominant operator in freight (90 % in 2004), there are other private operators emerging in specific freight markets.

Freight operations (4 largest long-distance players)

- Railion (Stinnes-Logistics/Deutsche Bahn Group)
- TX Logistik
- HGK/SBB Cargo (Co-operation)
- Rail4Chem

Passenger operations (4 largest)

- DB Regio AG
- DB Fernverkehr AG
- Arriva Deutschland GmbH (after the takeover of Prignitzer Eisenbahn GmbH and Regentalbahn in 2004) (a subsidiary of Arriva plc.)
- Connex Regiobahn GmbH (Connex Group)

3.2 Safety certificate

See 3.2.

3.3 Market shares/transport volumes

| Passengers carried/goods carried | | | | |
|---|-------------|-------------|-------------|-------------|
| Specification | Unit | 2000 | 2001 | 2002 |
| Passengers carried | | | | |
| - Rail transport | Mln. | 2 001.5 | 2 004.9 | 1970.7 |
| Goods carried / Quantities carried | | | | |
| - Rail transport | Mln. tonnes | 294.2 | 288.2 | 285.4 |

Freight operations

No reliable data available.

Passenger operations

| Company | Number of passengers transported |
|-------------------------|---|
| DB Regio | 753.3 million passengers; 21.3 bn passenger kilometers (2004) |
| DB Fernverkehr | 109.6 million passengers; 30.0 bn. passenger-kilometers (2004) |
| Arriva Deutschland GmbH | Not available |
| Connex Regiobahn | Not available |

4 NGO'S

| Type of NGO | Number of NGOs | The main activity of 2 key organizations (include name) |
|---------------------|----------------|--|
| Industry | 3 | Association of German Transport Operators (VDV) – Lobby group of passenger rail, rail freight and road passenger transport operators |
| | | Association für Competition in the Rail Sector (Club of DB-competitors) (Mehr Bahnen – Vereinigung für Wettbewerb im Schienenverkehr e.V.) - Lobby group of the main competitors of Deutsche Bahn AG, main activities in passenger rail transport |
| | | German Railway Industry Association VDB – rail vehicles and equipment producers' lobby |
| User | 4 | Consumers Union (Bundesverband der Verbraucherzentralen) - consumer organisation, in the rail sector mainly focussed on passenger rights |
| | | Transport-Club Germany (Verkehrsclub Deutschland VCD) - founded as an alternative to traditional clubs of car-users, supports generally environmentally friendly transport, main activities in the rail sector concern passenger rights, user-friendly fare-systems and the reform of the legal framework in the German rail sector |
| | | Rail Passengers' Association (Fahrgastverband Pro Bahn) |
| | | Association of German Rail Clients (Deutscher Bahnkundenverband DBV) |
| Trade Unions | 3 | German Rail Workers' Union (TRANSNET Gewerkschaft der Eisenbahner Deutschlands, 280.000 members) - biggest and most important union in the rail sector, in the actual political discussions they vote for the integration of the DB Group but against selling parts of it at the stock market |
| | | Union of Locomotive Drivers (Gewerkschaft der Lokomotivführer – GdL) |

| | | |
|----------------------|---|--|
| | | Transport-Union (Verkehrsgewerkschaft GdBA) |
| Total # of members | | 80%-90% of the railway workers is union member |
| Environmental | 1 | Association for Protection of Environment and Nature (Bund für Umwelt- und Naturschutz BUND) – pro environmental friendly transport, against new High-Speed-Lines |
| Other | - | Allianz pro Schiene Membership organisation promoting the environment by promoting railways. |

4.1 Industry associations

Within the Association of German Transport Operators (VDV) (www.vdv.de) are the transport companies of the public transport sector and the rail freight sector in Germany organised. The association sees its objectives in the consulting of its members, the know-how- exchange between members and in the coordination of technical, economical and judicial requirements. Furthermore it articulates the interests of its members as a lobby group towards parliament, administration, equipment-producers and other institutions.

The Association für Competition in the Rail Sector (Club of DB-competitors) (Mehr Bahnen – Vereinigung für Wettbewerb im Schienenverkehr e.V.) (www.mehrbahnen.de) is a group of rail operators which unifies the following objectives:

- support of competition in the rail sector
- improvement of the rail passenger services
- reduction of public aid paid for these services.

The German Railway Industry Association (VDB e.V.) (www.bahnindustrie.info) unifies the producers of all equipment needed in the rail sector. It represents 95 companies with more than 40,000 employees. The association organises the exchange between the members and the bundling of its interests in technical, judicial, political and economical ways.

4.2 User Groups

The Association of Consumers' Unions (www.vzbv.de) is the national organisation of consumer organisations and social policy-oriented member associations. The function of the Association of Consumers' Unions is to promote consumer interests and support the consumer information activities of its member organisations. The Association of Consumers' Unions represents the rights and interests of consumers in many political and economic-sector bodies at the national and international level. It develops and maintains close relations with parliaments and drafts proposals and position papers for legislative initiatives.

Thus, in 1964, the Federal Government, together with the Association of Consumers' Unions (AgV), set up a foundation in Berlin known as "Stiftung Warentest", which tests goods and services (quality, value for money and compatibility with the environment). The foundation's main publications are the magazine "test", which appears monthly and has a circulation of about 700,000. Test results are also regularly publicised in some 160 newspapers and periodicals as well as on radio and television. Their tests eventually include service quality of the railways.

Concerning the rail sector the activities of Consumers' Unions are focussed on quality aspects in public transport and passenger rights. One example of their activities is the arbitration board for problems with the public transport in Northrhine Westfalia (www.schlichtungsstelle-nahverkehr.de). This institution is monitoring the quality of the operators, publishes reports on quality and service, arbitrates between passengers and operators when passengers feel treated in wrong way and claim for compensation.

Transport-Club Germany (Verkehrsclub Deutschland VCD) was founded as an alternative to traditional clubs of car-users. Today VCD has about 65,000 members. Its objective is ecological mobility. VCD supports generally environmentally friendly transport and claims for safety in the transport sector, especially for the weaker attendants in road traffic, such as pedestrians and cyclists. Main activities in the rail sector concern passenger rights, user-friendly fare-systems and the reform of the legal framework in the German rail sector (www.vcd.org).

The rail passengers' association (Fahrgastverband) Pro Bahn (members: 5,000) sticks up for improvements in timetables, develops conceptions for better public transport services, is lobby group for rail transport towards politicians. It also claims for better passenger rights, customer-orientated public transport and user-friendly fare schemes (www.probahn.de).

Association of German Rail Customers (Deutscher Bahnkundenverband DBV) also wants to bring forward public transport, especially rail transport. Beyond its objectives are improvements of timetables, the conservation of rail lines in rural parts, care of rail heritage and information of the youth concerning rail and environment (www.bahnkunden.de).

4.3 Trade unions

The biggest railway trade unions in Germany (2003):

- TRANSNET Gewerkschaft GdED (280.000 members) (former *German Railway Union*) (www.gded.de)
- Verkehrsgewerkschaft GDBA (www.gdba.de)
- Gewerkschaft deutscher Lokomotivführer GdL (locomotive drivers' union) (www.gdl.de)
- Employers' Association of Mobility and Transport Service Providers

The unions represent employees interests and conducts negotiations, discussions with the companies and the government concerning pay, health care, social welfare etc. The unions are active. On 15 March 2003, the two major trade unions organizing German railway workers - Transnet, affiliated to the German Trade Union Federation (Deutscher Gewerkschaftsbund, DGB), and Verkehrsgewerkschaft GDBA, affiliated to the German Federation of Career Public Servants (Deutscher Beamtenbund, DBB) - and the Employers' Association of Mobility and Transport Service Providers (Arbeitgeberverband der Mobilitäts- und Verkehrsdienstleister, Agv Move), representing the Deutsche Bahn AG (DB AG) railway company, concluded a new collective agreement on pay covering some 160,000 employees working for DB AG. A lot of effort is spent by unions trying to mitigate the layoffs in German Railways (the railway wants to cut its personnel costs by a total of 3.6 billion DM by 2004, which is the equivalent of 70,000 jobs).

4.4 Environmental groups

The most famous NGO in environmental field that is related to German railways is Bund für Umwelt und Naturschutz e.V. BUND. In addition to its environmental activities an objectives the group has a regularly focus also on rail issues, as rail transport is seen as an environmentally friendly way of transport. Promoting rail transport especially with regional importance, they argue against new high-speed-lines, built through ecologically valuable regions (www.bund-naturschutz.de).

4.5 Others

The Allianz pro Schiene e.V. association's purpose is to promote environmental protection by educating the public on the environmentally compatible nature of railway transport in the Federal Republic of Germany and in Europe outside Germany with the aim of increasing the share of railways in the traffic system. The association shall encourage the exchange of information on railway traffic issues and the technological development status of the standard-gauge rolling stock and permanent-way system on national and international level. The association shall participate in the contracting and implementation of scientific studies in this area and the immediate publication of their results. www.allianz-pro-schiene.de

5 FURTHER FACTS AND STATISTICS

5.1 Complaint statistics and information

The most prominent case brought before the BKartA concerned the track prices paid to the DB Net AG to accessing the track (Süddeutsche Zeitung 03.08.2000). Competitors of the DBAG criticized the two-level track price system of the DB Netz AG, which was said to favor larger customers such as DB Cargo AG or DB Regio AG and thus to keep competitors out of the market. After informal negotiations between BKartA, the DBAG and the plaintiffs, an informal agreement led to the development of a non-discriminatory, one-level track-system by the DBAG (Interview BKartA, August 2000). In April 2001 a new system was implemented, which reduced track prices for small users of the DBAG net. In the past 2 years there was not a single complaint on material track access issues that ended with a final ruling by the EBA against DB Netz AG.

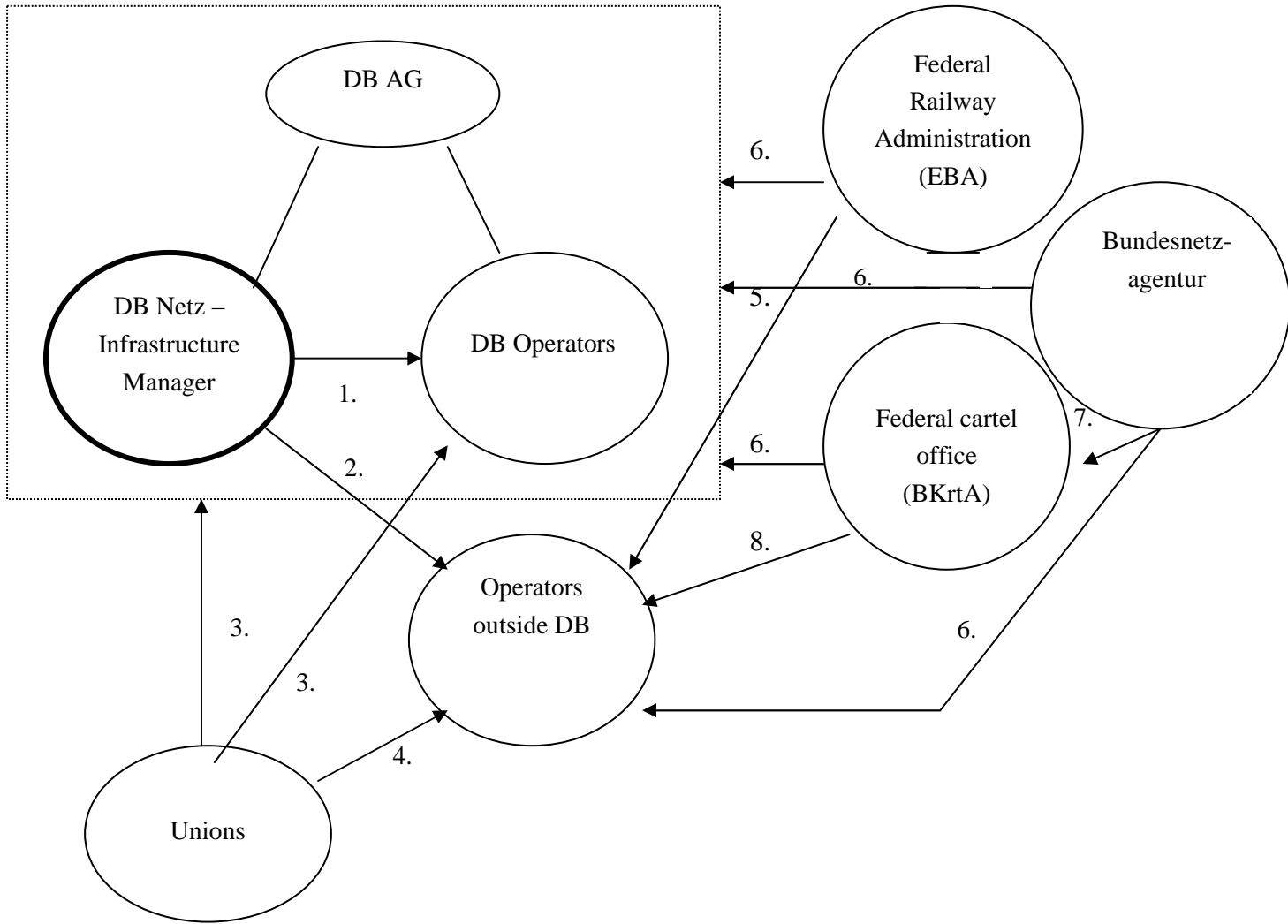
The award of public service contracts has been subject to a series of public procurement appeal procedures. These include several appeal procedures related to the direct award of contracts to Deutsche Bahn Regio AG subsidiaries. A sector specific statistic does not exist.

5.2 Railway accident statistics

In 2001, 420 people were injured in German railways operations.

| | 2000 |
|--|------|
| Persons killed in accidents involving railways (incl. railway crossings) | 225 |
| Number of passengers killed in accidents involving railways | 38 |

6 GRAPHICAL OVERVIEW



1. Track access
2. Track access
3. Labor constrains
4. Labor constrains
5. Control (on behalf of most regional administrations of the Bundesländer)
6. Control
7. Cooperation
8. Control