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Our reference:
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Re: Commission Consultation Paper On International Rail Passengers Rights

INTRODUCTION

1. Your correspondence of 29 October 2002 refers. Mr Sweeney has read your invitation and has asked that I reply to you on his behalf. This response will deal with the questions raised in numerical order. We have passed the consultation document to Translink and have asked that they also comment as appropriate.
2. We do not think it would be appropriate to lobby for an exemption of the Belfast – Dublin Line (the Enterprise Service) on the grounds of its “remoteness”. It is an international line, which should meet the international standards. There is little merit in weakening the quality of rail services between the two cities on the grounds of their remoteness. Rather, we would prefer to see improvements being made to the Enterprise service by encouraging efficiency and value for money.

RESPONSE

3. *Q1. What are the most cost-beneficial measures justifying a Regulation at EU level?*

The Enterprise Service already has a charter that considers areas such as service reliability, cleanliness, staff standards, reservations, refunds and discounts. It is unclear whether regulation at EU-level would be cost

beneficial. It could improve service image, however it might also raise customer expectations to an unrealistic level. Improved service image could possibly aid increased patronage figures which would improve profitability levels, however, this is not a certainty.

4. *Q2. Should occasional international services be excluded from the scope of the regulation if such a service is not a service open to the public?*

This could be a possibility. However, the difficulty would arise as to how to define “open to the public”. Would a privately run service remain unregulated? The Department agrees with the sentiments expressed in the consultation paper that seek to improve passenger standards as far as possible. Lack of regulation (for certain sectors) should be exceptional.

5. *Q3. Should the scope also cover entirely national services or should it be left to the sole competence of Member States to establish appropriate passenger rights for those services?*

It is clear to the Department that any regulation should fall solely to International operations. We would highlight the vastly different levels of funding allocated to railways throughout Europe which might impact on service standards. Intervention ought to remain as low as possible.

6. *Q4. Should consultation of consumer and passenger organisation be regulated? If yes, according to what principles of organisation?*

Consultation of consumer/passenger organisation ought to be transparent. If regulation is deemed appropriate we would highlight the need to create as little bureaucracy as possible. However, if regulation is defined by adherence to guiding principles it could be an option.

7. *Q5. What issues should be covered in such an exercise (e.g: investigation of individual complaints not satisfactorily addressed by the railway undertakings concerned consultation on changes in timetables, fares, conditions of carriage, monitoring of passenger rights, cross-border services, line closures)? Should there be minimum requirements? Should an independent chairperson be appointed to facilitate to consultation process?*

Any consultation ought to be undertaken by the railway undertaking. The railway undertaking would be best placed to survey what is most relevant to its needs. It would be a good idea to include a form of question

ranking, where passengers responding would be able to indicate how important they believe a specific issue is. From the perspective of transparency, it would be beneficial to have independent representation in any consultation process with passengers (both in formulating questions and in assessing responses).

8. *Q6. Could the set-up of the monitoring scheme contribute to better service in international rail passenger transport?*

Yes.

9. *Q7. What essential performance indicators are to be measured and disclosed by the railway undertakings?*

The consultation document suggests relevant survey topics. The proposed obligation for railway undertakings *to indicate how they took account of the observations and requests made* is to be welcomed. This would ensure a level of accountability rather than a box-ticking exercise. However, different companies assessing similar questions might cause inconsistency in results, meaning it would be difficult to achieve a credible harmony of standards throughout the EU.

10. *Q8. Which of the contract conditions should at least be mentioned on the ticket, and how should that be regulated? See Annex I (3) for an example.*

Q9. What is the minimum set of information that should be mentioned on a ticket, and how should that be regulated? See Annex II (4) for an example.

Tickets are, de facto, small in size. This limits the amount of information that can be placed on them. It may be better to place the information suggested in Annex 3 on a notice board at rail stations or at places where tickets may be purchased. Regarding minimum information available of the tickets, a number of things might be included:

- Date and time of Issue and validity
- Identity of selling agent
- Origin and destination
- Class
- Reservations
- Restrictions
- Fare calculation
- Cost

- Luggage allowable
- Refund conditions
- Reference to the Passenger Charter
- Complaints contact.

11.Q10. How can information services, especially concerning fare levels and conditions, be improved? How should the scope of services to be covered be defined, in order to ensure that the majority of passengers' needs are served without imposing unjustified costs on the undertakings concerned?

Information on fares ought to be displayed so people know how much they will be charged for a particular journey. Pricing information should also be available via the internet or telephone enquiry. Improved information for passengers could improve satisfaction and patronage.

12.Q11. In the short term, how can reservation services be made more compatible with each other in order to have EU reservation made possible, and how to ensure their interoperability with other modes of transport?

N/A

13.Q12. Should there be a legal obligation on rail operators to supply information about international rail of the same standard as the information they supply about national rail?

As noted in paragraph 11 above, improved information would improve passenger satisfaction. However, there seems no clear reason why rail operators would wish to make less information available to international rail users than national users.

14.Q13. In the absence of accurate information on train services, should railway undertakings be obliged to provide information on the services of their direct competitors?

N/A.

15.Q14. Should the railway undertakings be obliged to sell tickets for all possible connections between major stations or alternatively the most international connections? How could this obligation be defined?

This is an operational issue for the railway companies themselves. However, it is obvious that this would make rail travel a simpler task for many. Rather than oblige, it might be better to encourage undertakings to give consideration to this issue.

16.Q15. Should incumbent railway undertakings be obliged to allow new railway operators to use the existing ticketing systems in order to ease distribution of tickets?

Recognition of other companies' tickets would surely be a matter for the operating companies themselves. However, it is clear that cooperation between the companies would ease passenger travel.

17.Q16. What could be done at EU level in order to ensure that also as regards fare level for cross-border rail, these are in line with fare levels for a similar distance within one country?

This might not be beneficial: different companies will have different fares pricing structures. Further, fares pricing structures may differ within the companies themselves. Therefore, it may be nigh impossible to implement a standard fares structure.

18.Q17. Do you agree with the proposal to oblige railway undertakings to develop public quality standards for international services geared at the specific services applicable?

Yes. However, this issue will not affect the Belfast –Dublin Enterprise Service as there is one *type* of service operated by Northern Ireland Railways and Iranrod Eireann. This is a daytime service with differences mainly in class and perhaps the addition of one or two stops en route.

19.Q18. Is the proposed list of quality standards to be made public by railway undertakings adequate?

Yes. This seems a comprehensive list.

20.Q19. *How should the performance of the quality standards be monitored?*

Preferably via an independent company feeding back to the operating company and charter panel.

21.Q20. *Should railway undertakings develop contingency plans in case of major service disruptions? And if so, what should they cover?*

Contingency plans represent good operating practice. Presumably it would already be a standard operating rule.

22.Q21. *Should there be European quality and reliability standards for international rail services as in the other sectors?*

There should be European targets relating to quality and reliability. Whether standards would be achievable by all undertakings is an issue that would also need to be taken account of.

23.Q22. *Do you agree with the proposal to involve associations representing PRMs in consultation procedures to enable an improvement of the shortcomings mentioned above?*

Yes. The Department must also draw attention to the requirements imposed under Section 75 of the Northern Ireland Act (1998). This requires all public authorities in carrying out their functions relating to Northern Ireland to have due regard to the need to promote equality of opportunity among nine categories, which include dependency, age and disability.

24.Q23. *Do you agree with the 3 proposals mentioned above, and should those be regulated in a Regulation?*

Improving the quality of information on available services for PRMs, including those with hearing and visual impairments is to be welcomed. However, guidelines would need to be agreed, both with representative organisations and railway operating companies. Appropriate training of staff is also attractive, as is staff assistance to persons with disabilities providing the company/ companies are informed in reasonable time to prepare. It would be useful if companies were under a requirement to progressively improve their facilities when renovations are being made, with a requirement to ensure new structures are disability-friendly.

25.Q24. *Do you agree with a mandatory impact assessment for PRMs of any modification proposed for rolling stock or stations?*

The requirement suggested above (paragraph 24) might negate this suggestion. That persons with reduced mobility are given due regard at any modification would be welcomed. However, their needs might not always be met. Thus, a form of mitigation/opt-out in any requirements would be necessary.

26.Q25. *Should railway undertakings be obliged to carry bicycles on international journeys or should they merely concentrate on developing facilities for bike rental at the major stations (and allowing bikes to be returned in another station)?*

Neither of these suggestions should be made binding requirements. This decision ought to be left entirely to the railway operating company. It would seem inappropriate to require an operating company in a damp, hilly climate where bicycles are not a popular form of transport to invest potentially substantial amounts in a project that would probably be under-utilised.

27.Q26. *Should an 'accessibility assessment' for bikes be compulsory in case modifications of stations or its surroundings are planned?*

This would be unnecessary if the suggestion made in paragraph 25 above were put into action.

28.Q27. *Should railway undertakings be obliged to offer registered luggage for PRMs?*

This appears an attractive idea. However, the difficulties involved in defining PRM may well mean that implantation could be problematic.

29.Q28. *Should railway undertakings be obliged to have a safe or secured area for the transport of luggage in long distance trains?*

Only if a safety issue has been identified. However, provision of safe and secure areas for luggage on long-distance journeys would increase a services attractiveness, possibly as well as comfort levels.

30.Q29. *Should the issues raised in this paragraph, such as noise levels, smoking, cleaning of trains be part of a Regulation or a Quality Charter to be developed by the railway undertakings?*

The issues of sanitary facilities, noise levels, smoke diffusion from smoking areas and functioning of air conditioning are all important factors in passenger comfort and service attractiveness. It would be good practice to include issues like this in a Quality Charter. However, as quality standards and expectations differ throughout the EU, it might not provide a suitable area to formally regulate.

31.Q30. *Should a public security analysis be mandatory if plans are drawn up to modify or restructure stations and what should be the consequence? Should initiatives, such as the improvement of the co-operation with law enforcement services, be taken under the Justice and Internal Affairs pillar (third pillar)?*

Security analysis is an attractive requirement. However, the work produced by such an analysis should not be onerous. As disability requirements in paragraph 25 above, it might be better to require public security to be given regard. It seems unlikely, however, that any responsible railway operating company would ignore this important issue. Further, security requirements might vary across the Union. It is likely that the suggestion designed to promote passenger safety would have substantial costs. Could funding be made specially available to companies to assist operating companies meet any new requirements?

32.Q31. *Which are the measures to step up prevention of security infringements? What are measures to improve the possibility to act in case of infringement occur (e.g. are there any measures to improve security such as possibly an emergency voice contact between passengers and on-board staff to be required for all services?)*

Panic buttons and adequately trained staff could assist in reaction against any infringement of personal security (as well as increasing deterrent).

33.Q32. *Should there be a mutually recognised standardised form for reports of theft and other petty crime and/or a shortened procedure for victims to report this type of crime?*

This might be a good idea. However, each member state has its own legal system and requirements. Thus, it would be difficult to design a

standardised form. It might be more practical to ensure that forms reporting crime on international railway journeys have translations in the main languages of the European Union.

34.Q33. *Is any legislative action necessary to improve intermodality between rail and other modes of transport? If yes, what actions in particular?*

Prima-facie this is attractive. It would be helpful to rail passengers and could potentially shorten their journeys by eliminating the requirement to purchase tickets on more than one occasion. However, the difficulty might lie in applying and coordinating such a policy.

35.Q34. *Should a one-stop shop for complaint handling in relation to international services be obligatory for railway undertakings?*

This would be user-friendly. However, different expectations throughout the member states might make this impracticable.

36.Q35. *Should railway undertakings be obliged to publish analyses of the complaints, such as the number of complaints, broken down by category or service, and the average time to handle a complaint? Should the result of these analyses be monitored and discussed with passenger organisations?*

Yes, definitely. Publishing results would ensure transparency, as well as increasing accountability.

37.Q36. *Is 4 weeks a reasonable time limit to answer complaints?*

N/A

38.Q37. *For points where tickets are sold or distributed on behalf of railway undertakings, should these points also handle complaints, which are the result of a situation beyond the control of the distributor? Or should they be referred directly to the railway undertaking?*

It might be better to make the railway operator ultimately responsible for any complaints made, though providing a means for resolution with the ticket vendor.

39.Q38. *What language regime should be applied for complaint handling? Should the official languages of the countries where the trip has taken place determine the language used, in case a ticket was purchased in another country than where the trip was undertaken? What should be the regime for users of cards like the Eurail or Interrail card?*

It seems logical to use the languages of the countries where the trip has taken place in the case of complaints. However, this might disadvantage those without a working knowledge of the languages in question. Thus it might be better to ensure that companies have translation facilities available, with a time extension being permissible.

40.Q39. *Could representative consumer bodies have a role in taking up individual complaints?*

This could be a very attractive option, especially in light of the comments made in paragraph 39 above.

41.Q40. *Should an out-of-court dispute settlement procedure according to the principles of Recommendations of the Commission (98/257/CE and 2001/310/CE) be sufficient, or should there be additional requirements, such as the creation of a mediator within railway undertakings to review replies to complaints in case the plaintiff is not satisfied.*

A mediator could assist both sides of a dispute to reach a settlement. Would a mediator be heavily employed in practice?

42.Q41. *If the passenger wants to file a lawsuit, where should he be able to do that? Where the case/accident happened, where he bought the ticket, the origin and destination of the journey, the country with a changeover in the journey?*

Q42. What language regime should be applicable to this?

Yes, according to state law. It might be better to ensure that the case occurs in the country where the operating company has its headquarters. Certain requirements are imminent (if they have not already been introduced) concerning the duty of organisations to accept correspondence in Irish.

43.Q43. Are there reasons for a higher upper limit of the liability of railway undertakings or should it not be limited at all? Should there be a common upper limit for the EU?

Each member state ought to decide this as each will have differing provisions for victims of accidents. To limit compensation might be entirely inappropriate, where state provisions are lacking

44.Q44. Should there be a strict liability regime, like in the air transport section?

N/A

45.Q45. Mandatory insurance of railway undertakings would help the passengers practically in pursuing their claim. Are any procedural improvements of this kind necessary?

If liability insurances are not already a requirement they should be made one. This would protect all parties involved in any incident where compensation would normally be paid.

46.Q46. Should there be an EU wide approach in relation to minimum requirements regarding refund policy?

This is an attractive suggestion. However, care might be necessary to ensure that the standards set are not at a low level. This could in certain circumstances encourage undertakings to reduce standards, rather than encouraging others to raise them.

47.Q47. Do you agree with the principle to reimburse passengers for consequential damage in case of delays, unless the railway undertaken can prove it is not responsible?

Yes, for railway operations, where delay has not been previously publicised.

48.Q48. Do you agree on the proposal for compensation payments for delays? What would be a reasonable minimum compensation payment in the form of reimbursed tickets for late and cancelled train services.

Passengers ought to be compensated for delay. Compensation levels ought to be dependent on both length of journey and length of delay. The tables shown on page 36 of the consultation document seem inadequate in that the percentage reimbursements for high speed and non-high-speed services are identical. Surely, long distance high speed services which normally carry a higher fare tariff ought to be better compensated? A compensation limit would be necessary also.

49.Q49. Should all passengers have the right for compensation of fares in case of delays or could this condition be limited to a certain number of tickets with a possible different price?

Fares-paying passengers (of any sort) ought to be compensated against agreed levels.

*50.Q50. Should there be common rules at EU level, which determine the surcharge to be paid in cases of travel without a valid ticket? Should there be a distinction between travel without a **valid** ticket, and without a ticket at all?*

No. This ought to be a matter for individual operating companies and should also be at the discretion of ticket inspectors. Prescribed standards regarding warning notices for failure to be holding a valid ticket could be useful.

51.Q51. Should train staff be given a limited law enforcement authority in order to safeguard safety and security on board of international services as well as the punctuality of the service or do the existing, national provisions suffice?

Definitely, this will ensure the safety and rights of all people onboard an international service. However, this might cause contractual difficulties with staff already employed by companies, who might see it as additional responsibility.

52.Q52. Should there be common rules at EU level to deny a passenger the right to board a train or to have access to a station, if that passenger might endanger safety and or security on board of international services?

Prima-facie this is attractive. However, it might be inappropriate to regulate this as countries each have differing etiquettes.

CONCLUSION

53.Thank you for the opportunity to respond to the consultation document. We look forward to reading the final report in due course.