



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Bundesrat for its Opinion concerning the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail {COM (2013) 28 final}.

The Commission takes note of the position of the Bundesrat that the proposed amendment of Regulation (EC) No 1370/2007 should be limited to points that are necessary to open up the market for domestic rail passenger services. It is clearly the intention of the Commission proposal not to substantially amend the provisions of the Regulation for modes other than rail transport and thus modify the regulatory framework for those modes. Therefore, its proposal attempts to limit any impact on other modes than rail to a strict minimum necessary to effectively open up the market for domestic rail passenger services such as for instance the codification of the procedure of defining public service obligations and their scope in consistency with public transport plans. The Commission does not consider that Article 11 of the Regulation establishing a Commission reporting requirement at the end of the transitional period in 2019 constitutes a limitation to the Commission's right of initiative.

The Commission considers that the proposal does not constitute overregulation or a disproportionate intervention in the competences of Member States' authorities in charge of the organisation of public transport. The Commission is of the opinion that the proposed procedure of defining public service obligations and their scope in consistency with public transport plans constitutes mainly a codification of the procedure to be followed by competent authorities required under existing EU law. It also aims at enhancing procedural transparency.

*Mr Volker BOUFFIER
President of the Bundesrat
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The Commission's proposal under its Article 2a (4) stipulates that the scope of public service obligations chosen by a competent authority should allow the achievements of policy objectives set in a public transport plan in a cost-effective manner. The intention of that proposal is to allow a cross-financing of non-cost covering railway services through cost covering services provided under a public service contract, hence to enable competent authorities to ensure the provision of a certain desirable public transport volume in a cost-effective manner for public budgets. This proposed provision does not concern the type of contract award procedure chosen by a competent authority.

The further points mentioned in the opinion of the Bundesrat, i.e. to include requirements concerning quality of service in the annual reports to be published by competent authorities and to establish a ban of under-compensation of public service obligations are part of the European Parliament's position after 1st reading, not of the initial proposal presented by the Commission. The Commission notes that the proposal is currently in the legislative process involving both the European Parliament and the Council in which your government is represented.

The Commission hopes that these clarifications address the issues raised by the Bundesrat and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Violeta Bulc
Member of the Commission*