



EUROPEAN COMMISSION

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Dear Lord Boswell,

The Commission would like to thank the House of Lords for its Report "Tunnel vision? Completing the European rail market" and apologises for the delay in replying. We take note with great interest of the findings and detailed conclusions which relate not only to rail services through the Channel Tunnel but also to the broader functioning of the European rail market.

1. Single European rail market

The Commission is encouraged to see that the views of the House of Lords are largely in line with its own views as regards the importance of the rail network for the European single market and the need to overcome ongoing technical, administrative and legal obstacles that still impede access to the European rail market. The White Paper "Roadmap to a Single Transport Area—Towards a competitive and resource efficient transport system" {COM(2011) 144}, provides a detailed framework for policy action in the next ten years. It shows the central role that the Commission would like the rail sector to play in the European transport system by 2050 and to do this, rail needs to become more attractive, especially by being able to provide quality services which enable it to compete effectively and take a greater proportion of medium and long distance traffic.

The Commission notes your concern regarding the continued fragmentation of the European rail market and your views regarding the need for full separation of infrastructure managers from railway undertakings and strong, independent regulators. Work is underway to address these issues. The Commission also hopes that this year the co-legislators will be able to reach a second reading agreement on the recast of the first railway package. This is an important piece of legislation which will considerably improve the functioning of the market by strengthening the role of the regulator and improving access to rail-related services. In addition, the Commission announced its intention to put forward a fourth railway package by the end of this year. These new proposals will address a range of aspects such as domestic passenger services market opening, including mandatory award of public service contracts under competitive tendering and ensuring effective and non-discriminatory access to rail infrastructure, for example through structural separation between infrastructure management and service provision. The Commission services are currently conducting their Impact Assessment.

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The Commission also takes note that you consider that the creation of an EU-level economic regulator would be premature and that you support the establishment of Independent Regulators Group-Rail (IRG-Rail). This issue is also being discussed in the context of the interinstitutional negotiation on the recast. The priority now is to establish strong authorities with in-depth knowledge of local markets at national level. However, there is a need for strong coordination of regulators, in particular in relation to problems arising on international paths and the Commission can play a role in this coordination as well as to ensure uniform application by national regulators of EU rail legislation. Consequently, the Commission does not oppose requests by the European Parliament for a strong controlling and coordinating function for the Commission. At a later stage it may prove necessary to network regulatory functions at a European level. While the Commission welcomes the work of IRG-Rail and sees a strong role for it in facilitating best practice exchange, we should underline that official exchanges at EU level on regulatory issues take place within the Regulatory Bodies Group chaired by the Commission, as foreseen by EU legislation.

You point to disparities between Member State implementation of the Railway Packages, and the Commission would like to assure you that full and even implementation is a high priority for us. In 2008 the Commission launched letters of formal notice concerning inadequate implementation of the first railway package against 24 of the 25 Member States operating railways on their territory. To date, some cases have been closed following satisfactory resolution by the Member State in question. In addition, for those Member States who have not yet fully implemented the first package, the Commission looks forward to a number of rulings from the European Court of Justice, providing legal clarification on several key notions.

The Commission is convinced that interoperability plays a vital role in a single European rail area and welcomes your endorsement of the continued roll-out of ERTMS which will be crucial for future development of the European rail services market and urge deployment by 2020 of ERTMS through the Channel Tunnel and along HS1 in line with the European ERTMS Deployment Plan. The Commission agrees that multiple safety and interoperability standards for rolling stock contribute to the costs of cross-border rail service and that TSIs should be extended in scope wherever possible in order to facilitate market entry for new operators. As regards the remit of the European Railway Agency, the Commission does however consider that in order to achieve a single vehicle type authorisation and safety certification, it is imperative to reinforce the role of the ERA and possibly expand its remit.

The conditions of economic equilibrium of existing public service obligations and the international character of services impose severe restrictions on new international passenger services, where Member States decided to apply them. Since their transposition into national law is optional, national Parliaments can choose not to apply them and thus lift such restrictions. While such disparities constrain the creation of a truly European rail area and the EU Commission has made great efforts to overcome them, national Parliaments evidently have an even stronger lever to suppress them.

2. Channel Tunnel

Without a doubt, the Channel Tunnel is an essential link in the evolution of a truly single European rail area. The Commission shares your view regarding the need to ensure fair and open access through the Channel Tunnel. It is for this reason that it has addressed letters of formal notice to the United Kingdom and France concerning the lack of independence of the

rail infrastructure manager of the Channel Tunnel and the insufficient implementation of provisions in the first railway package concerning rail access charging, the independent regulatory body and capacity allocation as regards the Channel Tunnel.

As regards the Treaty of Canterbury, the Commission's proposal on the recast provides practical mechanisms to facilitate Member States aligning existing international agreements to EU legislation and taking the necessary initiatives without delay as required under EU Treaties.

The Commission takes note of your conclusions regarding governance of the Channel Tunnel, however, given the ongoing infringement proceedings it is not possible for us to comment on matters related to first railway package implementation and the Channel Tunnel at this time.

As regards the Channel Tunnel and safety and the applicable Technical Specifications for Interoperability (TSIs), the Commission has taken note of the opinion of the European Railway Agency.

The Commission welcomes the prospect of new international rail passenger services through the Channel Tunnel. The White Paper on Transport envisages an important role for high speed rail in connecting up cities and absorbing medium-distance traffic, in reducing carbon emissions and in facilitating mobility within the internal market. While the achievement of these objectives needs to be aligned with other EU regulations related to internal security, I am confident that solutions as regards cross-border security can be found.

3. Financing

The Commission welcomes your call for a prioritisation of TEN-T funding for cross-border transport infrastructure projects that contribute to economic growth by overcoming bottlenecks and helping to achieve the completion of the Single Market. As you are aware, the Commission put forward on 19 October 2011 its proposals on the revision of Trans-European Transport Network (TEN-T) guidelines and on the Connecting Europe Facility (CEF), to invest €31.7 billion to upgrade Europe's transport infrastructure, build missing links and remove bottlenecks. It is indeed the intention that such funding will have interoperability and fair access conditions attached to it. I hope the UK Government will be able to support an ambitious infrastructure proposal.

The tasks ahead are a real challenge for the Commission and the rail community. I know that we are working in a difficult economic, social and financial environment. Public budgets will continue to put strain on the rail infrastructure and market players will continue to be asked to do more with less support from Member States. This is why it is indeed important to maximise contributions from the private sector and explore the use of innovative financial instruments.

4. Passengers

For the Commission, passenger rights legislation is central to set the conditions for an attractive public transport for citizens and to choose multi-modal journeys as an alternative. As set out in the Communication of 19 December 2011 COM(2011)898 "A European vision for Passengers: Communication on Passenger Rights in all transport modes", while similar

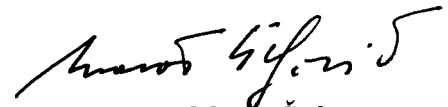
core principles and rights have been introduced across all transport modes (set out in an annex to the Communication), the main objective now is to make these rules easily understandable and to consolidate their implementation and enforcement. The Commission also welcomes your recommendation that the UK Government works with partners in OTIF to clarify application of CIV to international rail passenger journeys in the EU.

It also welcomes your support for improved pan-European through-ticketing and work to date on implementing the Telematic Applications for Passenger Services (TAP) TSI. The Commission is convinced that an inter-modal approach will ensure a genuine level playing field for the transport industry but also facilitate the enforcement of European standards for the protection of citizens and stimulate the development of multimodal journeys with integrated tickets under a single purchase contract.

The Commission would like to thank you once again for your very valuable Opinion and we count on your sustained contribution to assist the Commission in moving towards a competitive and resource efficient rail transport system.

I look forward to continuing the political dialogue with the House of Lords on these important issues.

Yours sincerely,



*Maroš Šefčovič
Vice-President*