



### **(C) Main recommendations for improvements**

**(1) Strengthen the evidence base in the problem definition.** The report should strengthen the analysis of the problem drivers by presenting clearer arguments, including input received from different public authorities, service providers, labour organisations, and users. The analysis should be based on factual evidence to show better that existing deficiencies in the quality, availability and efficiency of rail services are indeed to a considerable extent driven by inefficient use of public funds and lack of effective competition. It should provide evidence of improved performance in these areas where market opening measures have been introduced. In general it should clearly distinguish between factual evidence and stated stakeholder opinions to support the problem description, and it should give detailed references, including to relevant studies produced by or on behalf of relevant stakeholders. Main findings and conclusions of such studies, including those that are critical of the proposed options, should be reflected in the report, and disagreement with their findings or conclusions should be made explicit and supported by arguments, where relevant. Evidence for the effects of already completed market liberalisation should be based as far as possible on a comparative assessment across Member States on the basis of clearly defined benchmarks against which price, quality, availability, and efficiency are to be assessed. It should be supported as far as feasible by data covering relevant time periods, to show how performance has developed on a number of key indicators (like price, quality, availability – both in urban and remote areas, frequency, punctuality, reliability, safety, comfort, passenger use – total and by ticket category, consumer satisfaction etc.), in more liberalised railway markets. Where benchmarks are difficult to define the report should explain, and acknowledge the limits of illustrative anecdotal evidence. More detail should be given about the consequences of discrimination in the access to ticket distribution. The central principle of completing the internal market for transport services should be more visible in the problem definition and followed through in the intervention logic. The report should better justify the timing and scope of the initiative also in the light of the absence of conclusive evaluations. It should discuss possible subsidiarity issues (e.g. concerning urban and suburban railway networks, mandatory transfer of workers as a consequence of requirements under EU legislation) in more detail taking into account the TFEU Protocol on services of general interest and relevant case law. The report should present a full description of the consolidated baseline scenario.

**(2) Present and analyse comprehensive alternative policy scenarios.** The report should better structure the presentation of the options, especially as regards the sequence of discarding some of the partial options and selecting others to be contained in the packages. The arguments for retaining or discarding options should be made explicit in the main text, in particular for those that were thrown out in spite of strong stakeholder support (e.g. RS1, B2). The report should present additional alternative options to address the competition for PSCs and the supervision of their scope, with different degrees of ambition for the level of competition targeted for this segment. These should be taken up in comprehensive alternative policy packages (for instance based on market opening options 3 and 5), and their impacts should also be better assessed. The report should provide arguments why additional options have been formulated for ticketing and rolling stock, and not for other possibly relevant implementation issues. Where such issues have already been addressed in previous Railway Packages it should discuss the results in terms of effectiveness.

**(3) Provide a more balanced analysis of impacts.** The report should provide a significantly improved assessment of economic, social and environmental impacts, and in particular strengthen its analysis of impacts on final consumers (both in terms of prices and quality of services), employment and working conditions, as well as the impacts on

SMEs. It needs to address expected impacts on wages and productivity in the sector and substantiate and explain the implications of the statement that labour costs are the only compressible cost factor or drop it. The report should review its analysis of the labour market effects as data on the evolution of employment do not appear to be conclusive. If there is clear evidence of a trade-off between the creation of more jobs on one hand and the deterioration of working conditions on the other, the distributive and broader social consequences should be analysed in more detail, as well as possible impacts on safety and quality of services. To the extent feasible, the discussion of possible impacts on future wage developments in the sector should also consider potential consequences for recruitment, skills and productivity. In suggesting that ESF funded retraining of skilled railway staff could mitigate negative social impacts the report should also acknowledge the possible crowding out of other targeted beneficiaries. The report should explain better which benefits consumers are to expect from increased competition: in particular it should provide more compelling evidence for the assumption that the proposed forms of competition will lead to lower fares. The argument should be based on more than anecdotal evidence; e.g. the graph concerning the UK passenger rail market is outdated and should be omitted. Congestion on railway lines should be analysed as an endogenous factor, because the presence of several competitors on the same infrastructure is likely to lead to intensified competition at peak times. In the assessment of economic impacts, the treatment of investment should be considerably strengthened. The report suggests that the impact on investment is largely dependent on government decisions, which are uncorrelated with the developments in market structure, but the incentives for investment for both new and incumbent Railway Undertakings should also be more explicitly addressed in the analysis.

**(4) Improve the method used for assessing impacts and comparing options.** The report should clearly indicate where the assessment is based on objective evidence and where only stakeholder opinions can be brought up. It should assess all presented options, including their social impacts, and clearly explain the nature and robustness of the quantitative simulations of certain outputs over an evaluation period to 2035 to arrive at Net Present Values (NPV), while taking into consideration the reported uncertainty ranges. The report should also explain why investment is treated as a cost in the NPV calculations. The report should also clearly explain to what extent the qualitative assessment in terms of the +, - and 0 indications are analytically underpinned and comparable, and can legitimately be used to arrive at an overall comparison of options. The report should provide a comparable analysis for all options, with clearly defined criteria on which the options are assessed. As no strong evidence is presented to show that either of the two options investigated with regard to rolling stock can be expected to produce significant improvements upon the baseline, and they are both even inferior to the baseline in terms of innovation, the report should explain why the rolling-stock issue is nevertheless brought forward.

*Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report*

#### **(D) Procedure and presentation**

The report should explain why no full, open consultation has been undertaken. It should justify why the more targeted approach is judged as being sufficiently broad to give opportunity for input to all relevant and interested stakeholders. In this context it should be cautious in presenting Eurobarometer surveys as stakeholder consultation. The views of all relevant stakeholders and Member States should be better reflected throughout the main text.

<b>(E) IAB scrutiny process</b>	
Reference number	2012/MOVE/017
External expertise used	No
Date of IAB meeting	7 November 2012