



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
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Opinion

Title

DG MOVE - Impact Assessment on Legislative proposals to eliminate remaining administrative and technical barriers in the field of interoperability and safety on the EU railway market

(draft version of 31 July 2012)*

(A) Context

The EU railway market has seen major changes in the recent decade. They were gradually introduced by three legislative "railway packages" (with some accompanying acts) intended to open up national markets and make railways more competitive and interoperable at the EU level, while maintaining a high level of safety. The most recent development is the adoption (passed 2nd reading in Parliament in July, to be adopted by the Council in December 2012) of the recast of the 1st Railway Package, which, in addition to legislative simplification and consolidation, clarifies certain provisions on competition issues, regulatory oversight and financial architecture of railway operations. Despite the considerable development of the 'EU acquis' establishing an internal market for rail transport services, the modal share of rail in intra-EU transport has remained modest. Therefore the Commission has planned to put forward the 4th Railway Package in order to enhance the quality and efficiency of rail services. This impact assessment focuses on removing remaining administrative and technical barriers, in particular by establishing a common approach to safety and interoperability rules.

(B) Overall assessment

The report provides an adequate overview of the main issues concerning interoperability and safety on the EU rail market, but should be improved in a number of respects, particularly with regards to the explanation, transparency and robustness of the underlying cost-benefit analysis. Firstly, the report should strengthen the analysis of the problem drivers, by better explaining the reasons for the lack of success of the current legislative framework. Secondly, it should better present the policy options, for instance by providing greater clarity on their key differences in relation to the set of identical core measures and by better explaining how they interact with the other initiatives of the 4th rail package to promote greater competitiveness of the sector. Thirdly, the report should give a clear explanation of the costs and benefits of the various options, describe in much greater detail how these have been calculated, and how robust they are. Finally, the report should provide more references to different stakeholder and national authorities' views throughout the report.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

(C) Main recommendations for improvements

(1) Improve the problem definition. In view of the ambitious general objective (to improve the competitiveness of rail vis-à-vis other transport modes) the report should make clear that the proposed changes in the institutional setting of the ERA and national safety authorities are a necessary condition to achieve this objective. This should include a clear presentation of the policy context and expected synergies of the different railway packages, particularly with the other initiatives of the 4th railway package. The report should already identify in the problem description the "individual problems addressed" (e.g. total authorisation costs, average time to market etc.) that are used later in the report to rank options for coherence. In its analysis of problem drivers, the report should more explicitly address the reasons for the lack of success of the existing arrangement that has been the result of political compromise and which, according to some stakeholders, has failed to achieve its efficiency objectives. Furthermore, the report should present more statistical and Member State-specific data, such as the number and costs of authorisations, and explain the relevant context. Finally, it should strengthen the baseline scenario on the basis of a clearer description of the evolution of the individual problem drivers.

(2) Better present the options. The report should present the content of policy options 2-5 in more detail, by explaining the differences between the options in relation to the identical core measures. It should also clarify how they interact with the complementing elements in option 6. The report should also present these elements in a different way as they do not really constitute an alternative option. The report should also indicate, where relevant, whether there are alternatives for the elements that are included in the present option 6. The options section should also explain if any other alternative policy solutions have been discarded at an earlier stage. The report should explain in more detail how the proposed options would be applied in practice, and it should identify and assess which implementation problems would be likely to arise. Furthermore, the report should better explain how the policy options together with the other initiatives of the 4th railway package would contribute to the general objective, given that the current analysis concludes that the measures of this initiative in isolation have hardly noticeable impacts on the competitiveness of the sector.

(3) Better explain the calculation of costs and benefits. The report should give a clear and detailed explanation of the calculation of costs and benefits and it should also better explain the methodology used to arrive at these results. Links and proper (page) references to background studies that have been used to support the impact assessment should be made available, and where relevant the data used and assumptions made should be mentioned in the main text of the report. It should reinforce the argumentation with respect to the rather narrow range of cost/benefit differences between options 2-4, particularly in comparison to option 5. It should also indicate in more detail how robust these differences are, and whether slight variations in assumptions would lead to different results. It should correctly apply relevant cost concepts, for example by clearly distinguishing between administrative costs for different economic actors, and the costs of public administration, including the administration costs of ERA. The report should explain how the staffing levels and expected staff changes were calculated in the respective tables presenting impacts on the Agency and National Safety Authorities. It should also provide more detail on the distribution of the expected impacts, especially the costs across Member States. Finally, the report should extend the analysis of impacts on SMEs, particularly by adding some concrete figures or expected magnitudes of the

mainly positive impacts, including further supportive evidence.

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 provide more references to stakeholder input and their different views throughout the key sections of the report, including the views of individual national public authorities. It should also clearly explain why no general public consultation has been carried out, and why in the targeted consultations, no attempt was made to seek stakeholder validation of the cost and benefit estimates that are currently presented in the report.

| (E) IAB scrutiny process | |
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| Reference number | 2011/MOVE/011 |
| External expertise used | No |
| Date of IAB meeting | 5 September 2012 |