



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2012)

Opinion

Title **DG MOVE - Impact Assessment on a Legislative proposal on the governance of railway infrastructure in the Single European Railway Area**
(resubmitted version of 22 November 2012)*

(A) Context

The EU railway market has seen important changes in the recent decade. They were gradually introduced by three legislative "railway packages" intended to open up national markets and make railways more competitive and interoperable at the EU level, while maintaining a high level of safety. 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. The European Council conclusions of January 2012 highlight the importance of unleashing the growth-creating potential of a fully integrated Single Market, including measures with regard to network industries. Furthermore, the Commission Communication on Action for Stability, Growth and Jobs adopted on 30 May 2012 stresses the importance of further reducing the regulatory burden and barriers to entry in the rail sector. The Commission is therefore putting forward a 4th Railway Package. The present IA looks at issues related to railway infrastructure management and access barriers to railway networks.

(B) Overall assessment

The report has been revised in line with some of the previous Board's recommendations but still needs to be improved in a number of respects. First, it should strengthen the problem description by underpinning statements with robust evidence, by systematically providing the sources for the views reported and by openly acknowledging when evidence is not available or inconclusive. Second, the report should streamline the presentation of the options, notably by eliminating the redundant ones, and by packaging them into more differentiated and truly alternative policy scenarios. Third, the report should reinforce the assessment and comparison of the options by providing stronger evidence for the conclusions drawn, avoiding inconsistencies between the figures and the text, and better explaining the methodology used to calculate costs and benefits. Finally, when assessing the options, the report should more systematically present stakeholders' views, in particular, their concerns in relation to the pursued institutional separation.

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

(C) Main recommendations for improvements

1) Underpin the problem description with robust evidence and clarify the context.

The report should strengthen the problem definition by complementing the anecdotal evidence provided with sound data and by underpinning statements with evidence. When those statements are based on stakeholders' opinions, the source needs to be indicated. Evidence that is inconclusive should be discarded or this should be acknowledged in the text. The analysis should also explain whether, in addition to the reported coordination problems, other exogenous factors, such as the current economic crisis, may have had an impact on the 'negative trend observed in the development of international freight traffic'. In addition, the report should describe the reasons given by some Member States that are 'not willing to abandon their holding model'. Moreover, problem titles that pre-empt the preferred solution should be avoided.

2) Enhance the presentations of the options. The report should simplify the presentation of the options by eliminating the redundant ones. For example, it is not clear why options that are presented in annex IV as 'redundant and would therefore be left out of the final policy scenarios' are retained for the analysis. The packaging of options into different policy scenarios should also be reviewed since their only difference lies in the separation options. Thus, the subsequent analysis focuses mainly on the impacts of these separation options rather than on the impacts of the other options within the same scenario. The analysis would be more informative and less repetitive if truly alternative scenarios were presented (e.g.: 1. no action; 2. efficiency measures package; 3. clarification of separation obligations; and 4. institutional separation). Finally, the report should more clearly explain in the main text why options strongly supported by a number of stakeholders, such as reinforcing the role of the national regulators, have not been retained in the analysis.

3) Strengthen the analysis and comparison of options. The assessment and comparison of the options should be improved by underpinning the arguments provided with stronger and more robust evidence. Inconsistencies between the text and the supporting evidence, e.g. Figure 4 (second graph), should be avoided. Conclusions that cannot be substantiated should be deleted. Discarded evidence, whether based on EU or outside the EU experience, should be duly justified. The report should clarify why the envisaged measures will not have any direct environmental impact. Moreover, the report should present, on the basis of a clear methodology, an assessment of the possible social impacts of the proposed options. Furthermore, all the criteria used for the comparison of the policy scenarios (including the 'misalignment' criteria in table 7) should be discussed in the text. Finally, the methodology retained for the calculations of the costs and benefits provided in chapter 6 and annex V should be more clearly explained. The report should also clarify whether the end year used as reference for discounting is 2025 or 2035.

4) More thoroughly present stakeholders' views. The report should better describe throughout the text stakeholders' positions, systematically indicating the source of the comments (e.g. survey, conference...). In particular, Member States' and social partners' views, or eventually their refusal to position themselves, should be discussed in the main text. The reasons for opposition to the institutional separation option should also be clearly described in the main report. In addition, when analysing the options, stakeholders' concerns regarding the expected consequences of the pursued enhanced competition on employment and safety should be openly reported.

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 access to the sources used, notably for the analysis of costs and benefits (annex V), by providing each study's references and, where possible, the link to the web page where they can be found. The presentation of the new tables should be improved, e.g. by indicating whether the figures in table 8 are euros or percentages.

(E) IAB scrutiny process

Reference number	2012/MOVE/017
External expertise used	No
Date of IAB meeting	Written procedure This opinion concerns a resubmitted draft IA report. The first opinion was issued on 9 November 2012