



EUROPEAN COMMISSION  
Impact Assessment Board

Brussels,  
D(2013)

Opinion

**Title**                    **DG MOVE - Impact Assessment on access to domestic rail passenger markets**  
**(draft version of 19 December 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 of the recast of the 1st Railway Package on 29 October 2012, 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 a 4th Railway Package in order to enhance the quality and efficiency of rail services. This impact assessment focuses on opening the domestic rail passenger market, granting open access rights where appropriate while also addressing the public service contracts (PSCs) award process, in order to complete the process of rail passenger market opening. Accompanying measures are foreseen to facilitate Member States' retaining integrated timetabling and ticketing systems where this benefits the passenger.

**(B) Overall assessment**

**The report has been further improved along the lines of the Board's recommendations in both previous opinions and acknowledges that the evidence base to demonstrate the need for this EU initiative to further open domestic rail passenger markets remains inconclusive. The report should still be improved on a number of points. First, the report should present the arguments in a more balanced way and acknowledge the limitations in the presented evidence, when it tries to show to which extent the existing deficiencies in the performance of rail frequency of services are driven by lack of effective competition in domestic rail markets. The benchmarking proposed in this context should be based on all relevant indicators, including availability and frequency of services. Second, the report should provide more substantial arguments to account for the absence of a sufficiently broad range of alternative policy scenarios. Third, it should explain in its presentation of economic, social and environmental impacts, which uncertainties remain, notably with regard to impacts on consumers, employment and working**

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

**conditions. Fourth, it should explain why no robust calculation of costs and benefits of the various options could be provided and that the choice of the preferred option has been made on purely qualitative grounds. Finally, the report should further strengthen the references to the views of different stakeholder groups and national authorities throughout the report.**

**(C) Main recommendations for improvements**

**(1) Present the evidence base in a balanced way.** While the report tries to produce additional arguments, and more transparently presents the available evidence to support the central contention that more market opening as introduced in a number of Member States has indeed resulted in better performance (e.g. lower prices, increased punctuality, availability of railway services, etc.), the evidence remains inconclusive. Therefore, the report should more clearly and explicitly state the limitations of the available evidence already in the problem definition, as well as the consequences for the necessity of this proposal. The quality indicators used for benchmarking Member States need to cover all relevant dimensions, including notably availability and frequency of services. The distinction between arguments based on factual evidence and stakeholder opinions should still be made more explicit throughout the main text. As the report now acknowledges that it is not straightforward to compare national railway systems in terms of efficiency and passenger satisfaction because of the influence of factors such as population density and geographical urban concentration, it should also draw the necessary conclusions. More needs to be explained on the absence of evaluative information on the current framework as well as on the way in which this will be addressed in the future. In the subsidiarity section the issues of urban and suburban networks still need to be addressed.

**(2) Discuss the absence of a broader range of alternative policy scenarios.** The report should still provide more substantial – rather than procedural – arguments why no 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, were included in the stakeholder consultation. It should still briefly explain what such alternatives would have looked like to complete and balance the argument. It should clarify that these choices have narrowed the range of alternative approaches for which impacts should have been properly assessed.

**(3) Improve the presentation of the analysis of impacts.** The report still needs to more explicitly present the results of its analysis of impacts on final consumers (both in terms of prices and quality of services). It should acknowledge that the evidence underpinning its analysis of the labour market effects and of the need for possible mitigating measures remains inconclusive. It should still strengthen the analysis for all options in the main text on job creation and job losses to differentiate across skill levels, taking into account transitory periods. Finally, the report should strengthen the analysis of impacts of the options on working conditions and better explain why all options are expected to have a negative impact on working conditions.

**(4) Further strengthen the comparison of options.** The report should still more consistently indicate where the assessment is based on objective evidence and where on stakeholder opinions throughout the main text. It should explain why the choice between different options has not been made on the basis of the quantitative analysis provided, as this only illustrates the possible long-run effects of the preferred option. It should more

explicitly indicate throughout the text how the final results of the study have affected the conclusions of the report, with references to the published document itself. It should more clearly qualify the robustness of the assessment in terms of the +, - and 0 indications, and strengthen the argument that they support a meaningful comparison of the options.

*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 revised report explains better that the chosen consultation method has given sufficient opportunity to all affected stakeholders to provide input, and it explains the drawbacks of a more conventional open consultation method in this specific context. At the same time the absence of a consolidated reply to all input received in consultation implies that a greater effort should still be made to ensure that the views of all relevant stakeholders and Member States are adequately reflected throughout the main text. In addition, the report should include clear indications on the use of sources, both expert studies and stakeholder views, more systematically throughout the text. The Executive Summary should be aligned with the revised approach of the main report and present the available evidence and remaining uncertainties regarding the effects of intensified competition. Finally, section 2.3 of the main report should account for the changes that have been made in accordance with the recommendations of all three issued IAB opinions.

#### **(E) IAB scrutiny process**

Reference number	2012/MOVE/017
External expertise used	No
Date of IAB meeting	Written procedure. This opinion concerns a second resubmission of the draft IA report. Earlier opinions were issued by the Board on 9 November and 30 November 2012.