Impact assessment study on the revision of institutional framework of the EU railway system, with a special consideration to the role of the European Railway Agency

Results of the stakeholder consultation

Tuesday, 28th February 2012

Steer Davies Gleave
28-32 Upper Ground
London, SE1 9PD
+44 (0)20 7919 8500

www.steerdaviesgleave.com
Contents

• Introduction

• Preliminary overview

• Efficiency of objectives

• Efficiency of institutions

• Future policy options

• Next steps
Introduction
Introduction

- This document presents the results of the online survey for this study launched on 18th November 2011 and closed on 30th December 2011.

- A request to respond to the survey was sent to 358 stakeholders, some belonging to the same institution. The number of unique survey requests sent to individual institutions was 119. In total 67 complete responses were received which gives a response rate, compared to the number of institutions approached, of 56%.

- In addition, a further 10 written responses were given by stakeholders. These have not been included in the quantitative calculations, but the comments have been considered as part of the evidence base for the analysis.
Preliminary overview
Breakdown of responses (1)

- Regulatory Body: 5.9%
- Notified Body: 1.5%
- Association Representative: 11.8%
- Other and unspecified: 13.2%
- National Safety Authority: 23.5%
- Member State Representative: 17.5%
- Infrastructure Manager: 10.3%
- Supplier of Rail Equipment and Systems: 2.9%

Impact assessment of the future role of ERA
Breakdown of responses (2)

- Other and unspecified: 8
- Regulatory Body: 4
- Notified Body: 1
- Association Representative: 8
- Member State Representative: 12
- National Safety Authority: 16
- Infrastructure Manager: 7
- Supplier of Rail Equipment and Systems: 2
- Railway Undertaking: 9

Impact assessment of the future role of ERA
Efficiency of objectives
Objectives of the analysis - summary of comments

1. Generally very positive responses to the specific objectives

2. Positive responses for majority of the operational objectives

Summary of results provided in the following slides
Objectives - Specific objective (1)

Increase the efficiency of safety certification, vehicle authorisation and the access granting processes

<table>
<thead>
<tr>
<th>Relevant</th>
<th>Achievable</th>
</tr>
</thead>
<tbody>
<tr>
<td>No; 5%</td>
<td>No; 5%</td>
</tr>
<tr>
<td>No opinion; 12%</td>
<td>No opinion; 15%</td>
</tr>
<tr>
<td>Yes; 83%</td>
<td>Yes; 80%</td>
</tr>
</tbody>
</table>

Q8.1
Objectives - Specific objective (2)

Ensure non-discrimination in the granting and recognition of safety certificates, interoperability authorisations and in the granting of access to the rail network and services across the EU

- Relevant: Yes; 88%
- Achievable: Yes; 86%

Q8.2

Impact assessment of the future role of ERA
Increase the coherence of the national legal frameworks notably related to the safety and interoperability aspects of the internal market for railways
Objectives - Operational objective (1)

To achieve, by 2025, a 25% market share by new entrants in the rail freight market in each EU Member State

- Yes; 48%
- No; 29%
- No opinion; 23%
- Yes; 47%
- No; 19%
- No opinion; 34%

Impact assessment of the future role of ERA
Objectives - Operational objective (2)

To achieve, by 2025, 25% reduction of time to markets for new railway undertakings

- Relevant
  - Yes; 59%
  - No opinion; 28%
  - No; 13%

- Achievable
  - Yes; 53%
  - No opinion; 40%
  - No; 06%

Q9.2
Objectives - Operational objective (3)

To achieve, by 2025, 25% reduction in the cost and duration of the certification of rolling stock

- Yes; 70%
- No opinion; 25%
- No; 4.7%

- Yes; 57.8%
- No opinion; 33%
- No; 9.4%
Efficiency of institutions
Efficiency of institutions - Overview

Efficiency of Regulatory Bodies

Efficiency of Notified Bodies

Efficiency of National Safety Authorities

< INEFFICIENT - percentage of those expressing a view - EFFICIENT >

-100%  -80%  -60%  -40%  -20%  0%  20%  40%  60%  80%  100%

Very inefficient  Rather inefficient  Neither efficient nor inefficient  Quite efficient  Very efficient

Q3
Discrimination against new entrants by NSAs

- Representative Bodies indicated most cases of discrimination against new entrants from NSAs
- No Infrastructure Manager indicated cases of discrimination

Q4.1
Discrimination against new entrants by Notified Bodies

- Only one Representative Body indicated the possibility of discrimination against new entrants from Notified Bodies

Q4.2

Impact assessment of the future role of ERA
More than half of the Representative Bodies indicated that some Regulatory Bodies discriminate against new entrants.
The majority of respondents indicated a degree of divergent interpretation of the EU railway legislation among Member States.
Divergent interpretation of railway legislation (2)

- The majority of respondents indicated a degree of divergent interpretation of the EU railway legislation among Member States.
Efficiency of institutions - importance of specific issues

The following 5 statements were indicated as most important by respondents:

1. There is a lack of sufficient financial or human resources in some NSAs to effectively perform their tasks

2. Proper implementation of EU railway directives is being hindered by too divergent interpretation of the directives

3. Some Regulatory Bodies lack sufficient financial or human resources to effectively perform their tasks

4. Some NSAs are reluctant to accept safety certificates or authorisations for the placing in service of railway vehicles and subsystems granted by other NSAs

5. There is an insufficient level of dissemination of railway-related information and training within the EU and between EU member states

Summary provided in the following slides
Efficiency of institutions - opinions on specific issues (1)

- National technical and safety rule sometimes pose transparency and/or discrimination problems for new entrants.
- Some Notified Bodies lack sufficient financial or human resources to effectively perform their tasks.
- There is an insufficient independence of the Notified Bodies from infrastructure managers, incumbent rail undertaking, the ministry or other actors.
- Some NSAs are reluctant to accept safety certificates or authorisations for the placing in service of railway vehicles and subsystems granted by other NSAs.

< AGREE – percentage of those expressing a view – DISAGREE >
Efficiency of institutions - opinions on specific issues (2)

The granting of safety certificates to rail operators by NSAs and the authorisation of placing into service of rail systems and vehicles is too slow

There is insufficient independence of the NSAs from infrastructure managers, incumbent rail undertakings and/or the ministry

There is a lack of sufficient financial or human resources in the case of some NSAs to effectively perform their tasks

< AGREE – percentage of those expressing a view – DISAGREE >
There is an insufficient level of dissemination of railway-related information and training within the EU and between EU Member States.

Proper implementation of EU railway directives is being hindered by too divergent interpretation of the directives.

The level of monitoring and control of implementation of the interoperability and safety legislation by Member States is not sufficient.

There is insufficient independence of the Regulatory Bodies from infrastructure managers, incumbent rail undertakings and/or the ministry.

Some Regulatory Bodies lack sufficient financial or human resources to effectively perform their tasks.

Q6
Future policy options
Future policy options - summary of comments

The following 3 policy options were supported by the majority of respondents:

1. Enhanced role of ERA in migration from national technical and safety rules to a system of EU rules
2. Enhanced role of ERA in providing advice and support for Member States and other stakeholders in implementing EU legislation on safety and interoperability
3. Enhanced role of ERA in dissemination of railway-related information and training
Future policy options - summary of comments

The following 3 policy options were not supported by the majority of respondents:

1. ERA takes over the competences of the NoBos regarding checking the conformity with the TSIs of the rail sub-systems (including ERTMS equipment)

2. ERA takes over the competences of the Regulatory Bodies regarding market supervision over the infrastructure managers, in particular as far as cross-border traffic is concerned

3. ERA as an appeal body for some decisions of the Regulatory Bodies

Summary provided in the following slides
Options related to NSAs - placing into services

- ERA as an appeal body for some decisions of the NSAs relating to placing into service
- ERA takes some control over the functioning of NSAs (e.g. developing guidelines & auditing adherence)
- ERA takes over the competences of the NSAs regarding authorisations of rail vehicles & other sub-systems
- ERA shares the competences with the NSAs regarding authorisations of rail vehicles & other sub-systems (a "one stop shop")
- Enhanced "coordination" & supervision role of ERA with respect to NSAs for authorisations

Source of negative judgements

<table>
<thead>
<tr>
<th>Source</th>
<th>RU</th>
<th>AR</th>
<th>IM</th>
<th>MS</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSA 35%</td>
<td>22%</td>
<td>12%</td>
<td>11%</td>
<td>26%</td>
</tr>
<tr>
<td>RU 22%</td>
<td>21%</td>
<td>23%</td>
<td>21%</td>
<td>27%</td>
</tr>
<tr>
<td>IM 22%</td>
<td>25%</td>
<td>25%</td>
<td>25%</td>
<td>26%</td>
</tr>
<tr>
<td>MS 22%</td>
<td>25%</td>
<td>18%</td>
<td>16%</td>
<td>22%</td>
</tr>
</tbody>
</table>

Source of positive judgements

<table>
<thead>
<tr>
<th>Source</th>
<th>RU</th>
<th>AR</th>
<th>IM</th>
<th>MS</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSA 35%</td>
<td>29%</td>
<td>23%</td>
<td>21%</td>
<td>23%</td>
</tr>
<tr>
<td>RU 22%</td>
<td>21%</td>
<td>20%</td>
<td>17%</td>
<td>16%</td>
</tr>
<tr>
<td>IM 22%</td>
<td>21%</td>
<td>16%</td>
<td>18%</td>
<td>16%</td>
</tr>
<tr>
<td>MS 22%</td>
<td>27%</td>
<td>23%</td>
<td>18%</td>
<td>27%</td>
</tr>
</tbody>
</table>
### Options related to NSAs - safety certification

<table>
<thead>
<tr>
<th>Option</th>
<th>Source of negative judgements</th>
<th>Source of positive judgements</th>
</tr>
</thead>
<tbody>
<tr>
<td>ERA as an appeal body for some decisions of the NSAs relating to safety certification</td>
<td>MS 44% IM 22%</td>
<td>RU 30% AR 23%</td>
</tr>
<tr>
<td>ERA takes some control over the functioning of NSAs (for example by developing guidelines and auditing adherence to them)</td>
<td>MS 29% IM 29%</td>
<td>AR 29% RU 21% MS 21%</td>
</tr>
<tr>
<td>ERA takes over the competences of the NSAs regarding granting safety certificates to RUs</td>
<td>MS 31% RU 19% IM 19%</td>
<td>RU 24% AR 24% MS 18%</td>
</tr>
<tr>
<td>ERA shares the competences with the NSAs regarding granting of certificates to the railway undertakings (a &quot;one stop shop&quot;)</td>
<td>MS 29% IM 29%</td>
<td>RU 28% MS 17% AR 17%</td>
</tr>
<tr>
<td>Enhanced role of ERA in certification of RUs by setting the framework for the NSAs &amp; developing the single safety certificate</td>
<td>MS 41% RU 25%</td>
<td>AR 38% RU 18%</td>
</tr>
</tbody>
</table>

**Source of positive judgements**
- RU: 30%
- MS: 24%
- IM: 29%
- AR: 25%
- MS: 28%
- RU: 24%

**Source of negative judgements**
- MS: 44%
- IM: 22%
- RU: 29%
- IM: 29%
- MS: 31%
- RU: 29%
- IM: 29%
- MS: 29%

*Very inefficient* | *Rather inefficient* | *Neither efficient nor inefficient* | *Quite efficient* | *Very efficient*
Options related to Notified Bodies

ERA as an appeal body for some decisions of NoBos

ERA takes over the competences of the NoBos regarding checking the conformity with the TSIs of the rail sub-systems

Enhanced "coordination" and supervision role of ERA with respect to NoBos for type approval & ERTMS authorisation

Enhanced "coordination" and supervision role of ERA with respect to NoBos for type approval & vehicle authorisation

Source of negative judgements

<table>
<thead>
<tr>
<th>Source</th>
<th>MS</th>
<th>IM</th>
<th>NSA</th>
<th>RU</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>31%</td>
<td>31%</td>
<td>17%</td>
<td>17%</td>
</tr>
</tbody>
</table>

Source of positive judgements

<table>
<thead>
<tr>
<th>Source</th>
<th>NSA</th>
<th>AR</th>
<th>MS</th>
<th>RU</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>22%</td>
<td>22%</td>
<td>18%</td>
<td>17%</td>
</tr>
</tbody>
</table>

Q10.3
Options related to Regulatory Bodies

**ERA as an appeal body for some decisions of the Regulatory Bodies**

ERA takes over the competences of the RBs regarding market supervision over IMs, in particular for cross-border traffic

Enhanced "coordination" and supervision role of ERA with respect to Regulatory Bodies

![Bar chart showing the source of positive and negative judgements for different regions (AR, NSA, MS, RU, IM).](chart)

Q10.4

Impact assessment of the future role of ERA
Options related to activities of the Commission

<table>
<thead>
<tr>
<th>Option</th>
<th>Source of negative judgements</th>
<th>Source of positive judgements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Change directive to limit / remove the possibility for MS to adopt new national rules</td>
<td>NSA 33%</td>
<td>NSA 21%</td>
</tr>
<tr>
<td></td>
<td>IM 21%</td>
<td>NSA 18%</td>
</tr>
<tr>
<td></td>
<td>MS 21%</td>
<td>RU 14%</td>
</tr>
<tr>
<td>Communication from the EC on guidelines on the interpretation of specific EU laws &amp; decisions</td>
<td>RU 35%</td>
<td>NSA 39%</td>
</tr>
<tr>
<td></td>
<td>RB 11%</td>
<td>MS 16%</td>
</tr>
<tr>
<td></td>
<td>IM 11%</td>
<td>NSA 29%</td>
</tr>
<tr>
<td>Amendment of Directives to allow EC to produce implementing measures setting common principles for the national authorities</td>
<td>IM 33%</td>
<td>NSA 23%</td>
</tr>
<tr>
<td></td>
<td>MS 25%</td>
<td>AR 17%</td>
</tr>
<tr>
<td>Change Railway Directives into Regulations</td>
<td>IM 33%</td>
<td>NSA 28%</td>
</tr>
<tr>
<td></td>
<td>NSA 27%</td>
<td>MS 16%</td>
</tr>
<tr>
<td>Strengthened enforcement of railway legislation</td>
<td>MS 29%</td>
<td>NSA 28%</td>
</tr>
<tr>
<td></td>
<td>NSA 21%</td>
<td>IM 16%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>AR 16%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Source of positive judgements</th>
<th>NSA 21%</th>
<th>NSA 18%</th>
<th>RU 14%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source of negative judgements</td>
<td>NSA 33%</td>
<td>IM 21%</td>
<td>MS 21%</td>
</tr>
</tbody>
</table>

Impact assessment of the future role of ERA
Enhanced role of ERA in providing advice & support for implementing EU legislation on safety and interoperability

Enhanced role of ERA in dissemination of railway-related information and training

Enhanced role of ERA in migration from national technical and safety rules to a system of EU rules

Enhanced role of ERA in monitoring and control of implementation of national safety and interoperability legislation

Impact assessment of the future role of ERA

Q10.6

Source of positive judgements

Source of negative judgements

Enhanced role of ERA in providing advice & support for implementing EU legislation on safety and interoperability

Enhanced role of ERA in dissemination of railway-related information and training

Enhanced role of ERA in migration from national technical and safety rules to a system of EU rules

Enhanced role of ERA in monitoring and control of implementation of national safety and interoperability legislation

NSA 27%
MS 15%
RU 13%

NSA 28%
AR 16%
RU 14%

NSA 29%
MS 13%
RA 13%
Other options (2)

Setting up European passport for locomotives

Enhanced role of ERA in identifying potential spare parts to be standardised

Enhanced role of ERA in providing advice and support for telematic applications

Enhanced role of an EU body in providing advice in building capacities in MSs for investment projects

Impact assessment of the future role of ERA
Next steps

1. Take results of on-line survey and stakeholder comments and feed into further analysis.

2. Evaluate final policy options assessing:
   - Impact on the industry (cost and time to market in relation to authorisation)
   - Wider economic and social impacts
   - Impact on administrative costs

3. Prepare recommendations
Questions and Discussion

Francesco.dionori@sdgworld.net