

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

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This Communication sets out the measures that Member States and infrastructure managers should take to combine financial equilibrium with an appropriate level of rail infrastructure services. In particular, it covers multi-annual contracts for rail infrastructure quality.

EU legislation requires setting incentives to reduce the cost of infrastructure provision and of consequent infrastructure charges. Whereas the Community has established detailed requirements for safety management and accident (data) reporting, there are no such obligations as yet at Community level for monitoring infrastructure service. Member States may choose to meet this obligation by way of regulatory measures and/or contractual agreements, known as multi-annual contracts. These agreements represent a long-term financing arrangement for infrastructure maintenance. Such agreements are concluded for at least three years, i.e. longer than the traditional annual budgeting. Contract terms and the structure of payments have to be decided in advance for the entire contract duration.

The state of play regarding the use of multi-annual contracts varies considerably across Member States. About half neither use nor plan to make use of them. Some Member States provide no finance for rail infrastructure maintenance in the first place, some are in the process of negotiating contracts for the first time, and others are preparing to extend them for a new multi-annual period.

Maintenance of infrastructure does not always get the attention and finance that railway operators expect in order to compete with other modes of transport. Almost one third of infrastructure managers state that the finance available is not sufficient to maintain their network. There are huge differences in expenditure on maintenance per track km in the various Member States, sometimes up to 30 times. This discrepancy suggests that some networks may be building up maintenance backlogs, which the infrastructure manager is not able to finance. This large discrepancy may imply that in some cases maintenance may not be sustainable, whereas in other cases infrastructure managers may not have exploited cost reduction potentials in the same way all over Europe.

Infrastructure managers in some European countries have gained valuable experience in using multi-annual contracts. The Commission thinks it would be useful if this approach were applied more widely on the basis of existing best practices. In order to promote best practice in the use of multi-annual contracts, the need for further action is considered at three levels: Member States, infrastructure managers and regulatory bodies:

- Best practice requires that Member States should conclude multi-annual contracts with their infrastructure managers. However, where no such contracts exist, Member States should at least provide for the infrastructure manager to commit resources, including in-house provision or contracting, for periods of more than three years;
- Member States and their infrastructure managers have to ensure that multi-annual contracts are consistent with the national strategic transport plans and the infrastructure manager's business plan. The same holds true for infrastructure franchises and for any framework contracts between railway undertakings and infrastructure managers;
- The state should consult stakeholders on any proposal for multi-annual contracts before letting a new contract or renegotiating existing provisions. It then negotiates the size and the quality of the network;

- Member States should step up their efforts and reduce costs and charges for infrastructure provision and use. To this end, Member States should agree, monitor and enforce quantified cost reduction targets over periods of at least three years;
- Infrastructure managers should measure track condition at least once a year on all their lines, and more frequently on their main lines;
- Based on these measurements, infrastructure managers have to define and publish indicators making it possible to assess and predict infrastructure quality and performance on an annual basis for the duration of the multi-annual contract;
- Discretionary intervention by the state in infrastructure management should be limited to cases provided for in the contract, while the infrastructure manager pursues the agreed objectives with a broad measure of management independence. Otherwise the agreement or contract needs renegotiating;
- Infrastructure managers should report in the network statement when lines are not appropriately maintained and infrastructure quality is deemed to be in decline; otherwise infrastructure will be taken out of service. This information should be timely enough to enable it to act as an early warning system for users;
- An independent body should be tasked with monitoring compliance with a multi-annual contract and with mediating between the parties to the multi-annual contract in the event of any dispute. This presupposes having the appropriate staff and expertise to carry out this type of assessment.

Lastly, multi-annual contracts can be a precursor for making better use of competitive tendering for infrastructure services. It will be difficult to put an entire national network out to tender at once. To minimise any possible negative effects, safeguard measures need to be taken to ensure simple and non-discriminatory access rules, ensuring respect of the rules on competition.

At this stage, the Commission will consider including a number of the previous recommendations in its proposal for recasting the first rail package, planned for 2008.