Single European railway area: opening of the market for domestic passenger transport services by rail and governance of the railway infrastructure. 4th Railway Package

2013/0029(COD) - 30/01/2013 - Legislative proposal

PURPOSE: to intensify competitive pressure on domestic rail markets and strengthen governance of the infrastructure manager (**fourth railway package**).

PROPOSED ACT: Directive of the European Parliament and of the Council (amendment of Directive 2012/34/EU.

PARLIAMENT'S ROLE: Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: in its White Paper on transport policy of 28 March 2011, the Commission announced its intention to complete the internal railway market, allowing railway undertakings of the Union to provide all types of rail transport services without unnecessary technical and administrative barriers.

In the last decade, three legislative 'railway packages' have aimed at opening up national markets and making railways more competitive and interoperable at EU level. Despite the new EU legislation, **the modal share (6%) of rail in intra-EU transport has remained modest**.

A number of problems need to be addressed:

- the difficulty in accessing national passenger transport services: in many Member States, the market for domestic passenger services is closed to competition, which limits their development. This also creates disparities between those Member States that have opened their markets, and those that have not;
- the governance of infrastructure managers: since infrastructure managers are natural monopolies, they do not always react to the needs of the market and its users;
- a number of market entry barriers result from situations where infrastructure management and transport operations are part of the same integrated structure, with infrastructure managers facing a conflict of interest;
- lastly, integrated structures make it much more difficult to enforce the separation of accounts between infrastructure management and transport operations.

This proposal to amend Directive 2012/34/EU forms part of the Fourth Railway Package the overall objective of which is to enhance the quality and efficiency of rail services by removing any remaining legal, institutional and technical obstacles, and fostering the performance of the railway sector and its competitiveness, in order to further develop the Single European Railway Area.

IMPACT ANALYSIS: based on an external study and the conclusions of a targeted consultation, the Commission carried out an impact assessment of the proposed measures, which examined options for new measures aiming to modernise the existing regulatory framework.

LEGAL BASIS: Article 91 of the Treaty on the Functioning of the European Union.

CONTENT: this proposal encompasses provisions with the following aims:

1. The opening of the market for domestic passenger transport services by rail with the objective of intensifying competitive pressure on domestic rail markets. The Commission proposes to open, from December 2019, all national passenger transport routes to new entrants and service providers.

2. **Enhancing governance of the infrastructure manager** with the objective of ensuring equal access to the infrastructure. To this end, the proposal seeks to:

- remove conflicts of interest affecting decisions of the infrastructure manager on market access and eliminate the potential for cross-subsidisation, which exists in integrated structures;

- ensure that all of the infrastructure manager's functions will be managed in a consistent manner;

- strengthen coordination between infrastructure managers and rail operators to better respond to market needs;

- create a forum for the cooperation of infrastructure managers across borders;

- establish information and integrated ticketing schemes common to all railway undertakings operating domestic passenger services in a way that does not distort competition.

The proposal allows **vertically integrated undertakings**, including those with a **holding structure**, to maintain ownership of the infrastructure manager on condition that there are strong and efficient safeguards protecting the infrastructure manager's independence.

Verification of compliance: Member States could limit access rights of railway operators which are part of vertically integrated undertakings, where the Commission is not in a position to confirm that safeguards to protect the independence of the infrastructure manager have been effectively implemented.

BUDGETARY IMPLICATIONS: there are no implications for the Union budget.