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IRG-Rail

Work Programme 2014

14-15 October 2013

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Introduction

1. International cooperation in railways is becoming increasingly important. It already exists between both railway undertakings and infrastructure managers, through their participation in European railway associations and fora.
2. Intensifying cooperation between national independent Rail Regulatory Bodies is also important in order to promote sustainable and effective competition in the railway sector and contribute to the development of a genuine European internal rail market. This can be achieved by fostering a consistent approach to the regulatory framework for railways in Europe, developing regulatory best practice, and speaking to stakeholders at the Community level with a single voice.
3. In June 2011 IRG-Rail was founded in The Hague by 15 independent Regulatory Bodies. Two and a half years later the group has grown, and consists of Regulatory Bodies from 22 European countries. It has already become an important player, recognized by key stakeholders including the EU Institutions and sector organisations. Through the publication of several position papers, input into legislative proposals, and harmonised regulatory principles and practices, IRG-Rail has already proved its capability and efficiency.
4. The 2014 work programme of the IRG-Rail intends to continue this successful start and seeks to further enhance its position in the railway sector. In 2014 IRG-Rail will continue to focus on the needs of passenger and freight customers, the promotion of competition, and improvements in rail performance and efficiency.
5. The group will continue to develop the constructive relationships with European institutions and sector representative groups that have been already been developed over the past years. IRG-Rail's cooperative relationships with other Regulatory Bodies and other rail organisations, such as CER, EIM, ERFA, EPTO, RNE and UITP, will continue to be pursued wherever such cooperation is in the interest of rail customers and the promotion of competition.
6. As in 2013, the work programme for 2014 will be based on the two following priority areas:
 - promoting and improving harmonisation;
 - addressing emerging challenges.
7. The first priority area focuses on the principal aim of IRG-Rail: enhanced cooperation among Regulatory Bodies and further improved harmonisation.
8. The second priority area addresses challenges stemming from changes in the institutional environment.
9. Potential topics for both areas include: proposals on how to handle/implement the freight regulation in practice, further harmonisation in the field of market monitoring, common approaches on charging issues, and input to legislative developments such

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as the ongoing Fourth Railway Package negotiations. Work, outlined below, will be carried out by four thematic working groups established by the Plenary.

10. A Steering Group has been set up to serve as an advisory group to accompany the IRG-Rail's present and future development. This group will continue to monitor the European agenda and set priorities for IRG-Rail work as necessary.

1. Work programme 2014

1.1. Improving harmonisation

11. IRG-Rail has an important role when it comes to developing a consistent regulatory practice across Europe. Passengers and freight customers and market players rely on a consistent and harmonised application of the regulatory framework in order to be protected and compete on the same basis across Europe.
12. Separate working groups have been established to explore various issues in order to promote improved regulatory arrangements. An overview can be found in annex 1. The activity of these working groups will be pursued as follows:

Activity 1 - Developing common positions on access issues

Background:

13. In order to ensure non-discriminatory access to international rail services it is necessary for Regulatory Bodies to efficiently coordinate their responsibilities.
14. For 2014 the working group will continue to focus its activities on rail freight corridors. According to the rail freight regulation Regulatory Bodies must cooperate and exchange all necessary information with regard to the monitoring of competition in the rail freight corridors. They must also consult the Regulatory Bodies of other Member States, who have to provide and transfer all relevant information before taking decisions. This working group will also focus on developing positions of implementing acts proposed by the Commission on access issues.

Issues to be addressed:

15. IRG-Rail will:
 - develop common positions on areas of development of secondary legislation in particular as part of the as part of the implementation of the Recast of the First Railway Package such as
 - Framework agreements
 - Access to rail-related facilities (eg: capacity allocation, concept of 'viable alternative', burden of proof)
 - Authorised applicants
 - review cooperation agreement between regulatory bodies in rail freight corridors
 - develop common positions on conflict of requests for pre-arranged paths for

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- international passenger trains
- review the monitoring of rail freight corridors
- update the overview of network statements and capacity allocation
- provide input on the development of secondary legislation in particular as part of the implementation of the Recast of the First Railway Package

Deliverables:

- common position papers on key aspects of upcoming EC implementing act, for example: criteria applying to applicants for access to the network
- review of cooperation agreements between regulatory bodies in rail freight corridors
- review of monitoring process on rail freight corridors by regulatory bodies
- common position paper on handling of conflicting requests for pre-arranged paths for international passenger trains
- update of network statement and capacity allocation overview

Activity 2 – Developing common approach to market monitoring

Background:

16. Rail market monitoring is an important instrument for setting direction to the activities of the Regulatory Bodies and stimulating market participants to improve their activities. Regulatory Bodies have a formal duty to monitor competition in rail services markets. The First Package Recast provides for increased reporting activities at both the European and national level. At the same time, the European Commission monitors the development of the rail market in Europe through its rail market monitoring reports every two years. The next report is due to be published in 2014.
17. Cooperation of Regulatory Bodies on market monitoring is aimed at increasing comparability of national rail monitors, and enhancing national monitoring by sharing experiences, increasing knowledge of the European rail market. IRG-Rail aims to collect further data on international train movements.

Issues to be addressed

18. IRG-Rail will:

- progress its monitoring of the EU rail market
- develop further a common approach on indicators for Rail Related Services.
- continue and explore statistical and econometrical analysis of the performance of infrastructure managers and railway undertakings
- provide input on the development of secondary legislation in particular as part of the implementation of the Recast of the First Railway Package (article 15)
- share experience on the process of national market monitoring through a dedicated workshop.

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Deliverables:

- publish 2nd annual IRG-Rail market monitoring report
- if necessary, develop a further position paper on reporting requirements under the Recast of the First Rail Package implementing act to be proposed by the Commission
- update IRG-Rail guidelines on market monitoring

1.2. Emerging challenges

Activity 3 – Providing input to European legislative proposals

Background:

19. The European Commission published a proposal for a Fourth Railway Package in January 2013, addressing essential issues like liberalisation of domestic passenger market, further separation and a clearer definition of infrastructure managers' functions or a more effective approach to interoperability and cross acceptance to create a technical level playing field including a reform of the European Rail Agency. Regulator's expert knowledge gives valuable support for legislators to design the proposed or upcoming provisions such that they are feasible in practice in order to achieve the aim of establishing a competitive environment for all market players, safeguarded by independent, strong and credible national regulatory bodies.
20. With view to the implementation of the Recast of the First Railway Package the European Commission is working on the development of secondary legislation, to which this Working Group will provide input as well – unless specific issues are concerned which are to be treated within one of the other IRG-Rail Working Groups.

Issues to be addressed:

21. IRG-Rail will:

- provide input on the development of the Fourth Railway Package
- provide input on the development of secondary legislation in particular as part of the implementation of the Recast of the First Railway Package
- review the progress of transposition of the First Package Recast in member states
- progress the review of separation requirements in member states

Deliverable:

- develop position papers on the Fourth Railway Package as negotiations progress
- develop position papers on the Commission's secondary legislation proposals to the Recast as appropriate and provide factual input on further implementing measures to the Recast, and in particular
 - develop guidelines on Regulatory Bodies principles and practices for making decisions to inform the upcoming implementing measures to be proposed by the Commission

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- develop an overview of tendering procedures for rail public service contracts in Europe

Activity 4 - Developing common approaches to charging issues

Background:

22. Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure requires Regulatory Bodies to ensure non-discrimination on the railway market and in particular check whether charging principles are properly applied and whether separation of accounts is fully respected. The First Package Recast extends the competencies and functions of regulatory bodies to ensure proper oversight of charging.
23. Cooperation of regulatory bodies on charging issues is aimed at facilitating the development of common principles and practices for making decisions, as foreseen by the Recast.
24. IRG-Rail will seek to develop a common understanding of charging principles across the European rail sector and will look into recommendations based on European legislation and taking into account national practices.

Issues to be addressed:

25. IRG-Rail will:
 - explore and exchange information on general charging issues, e.g. charging principles for the use of infrastructure, incentive regulation;
 - seek to develop a common understanding of a regulatory approach to examine cost components and composition of infrastructure charges;
 - seek to develop common understanding of a regulatory approach to assess current incremental or marginal costs;
 - seek to develop criteria to assess current mark-ups, market segments and the capability of the market to bear them as provided under article 32.1 of Directive 2012/34/EU;
 - seek to develop a common understanding of the handling of scarcity and congestion charges under article 31.4 of Directive 2012/34/EU.
 - provide input on the development of secondary legislation as part of the implementation of the Recast of the First Railway Package

Deliverable:

- Update version of the 2013 review of current charging applications for the use of infrastructure (including results of the charging questionnaire on roles and powers of regulatory bodies)
- develop position paper on market segment definition and criteria for assessment of mark-ups
- develop overview paper on congestion/scarcity/capacity charges
- develop common position papers on key aspects of upcoming EC

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implementing acts, in particular on cost directly incurred

1.3. Identify and monitor key European strategic initiatives

Activity 5 –Manage activity of Advisory Steering Group

Background:

26. IRG-Rail wants to be regarded as an easily accessible, credible, professional and proportionate organisation in the eyes of our key stakeholders, the wider industry, the media and wider public. It seeks to identify and discuss forthcoming European issues at an early stage and be proactive in influencing emerging initiatives before strategic decisions are made at the European or national level. In order to facilitate timely and efficient communication on key strategic issues and to create continuity, a Steering Committee serving as an informal advisory group at senior working level has been set up. This group consists of representatives of Regulatory Bodies of the current, previous and next chair of IRG-Rail in particular. Members of other regulatory bodies can also participate.

Some of the tasks to be addressed:

- proactively encourage membership of IRG-Rail for all independent Regulatory Bodies;
- proactively monitor the European agenda;
- identify key regulatory and strategic issues likely to impact on IRG-Rail;
- act as central contact point for strategic issues and advices;
- work as a collective up-to-date conscience regarding regulatory issues;

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Annex 1

Working Groups and Taskforces

	Name	(Co-) Chaired by	Contact person
1	Access	Bundesnetzagentur	Wolfgang Gross
2	Market Monitoring	NMa	Claudine Vliegen
3	Emerging Legislative Proposals in the Railway Sector	Bundesnetzagentur/ ORR	Andrea Sanders- Winter / Agnès Bonnet
4	Charges	ARAF	Miguel Amaral
5	Taskforce Informal Advisory Group	Representative of IRG-Rail Chair	Daniel Becker