

IRG-Rail (12) 9_rev1



Independent Regulators' Group – Rail

IRG–Rail

Work Programme 2013

1. Introduction

International cooperation in railways is becoming increasingly important. It is already firmly established between both railway undertakings and between infrastructure managers through their participation in European railway associations and fora.

Intensifying cooperation between the national independent Rail Regulatory Bodies is important in order to promote sustainable and effective competition in the railway sector and contribute to the development of a 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 all relevant stakeholders at Community level with a single voice.

In June 2011 IRG-Rail was founded in The Hague by fifteen independent Regulatory Bodies. About one and a half years later the group has grown and consists of Regulatory Bodies representing twenty-one European countries. It has already become an important player that is recognized by key stakeholders like the EU Institutions or European sector organisations. By the publication of several position papers IRG-Rail has impressively proved its functioning and efficiency within its short set up phase.

The 2013 work programme of the IRG-Rail intends to continue this successful start and seeks to enhance its position in the railway sector further. Consequently also in 2013 IRG-Rail will have its focus on the needs of passenger and freight customers, the promotion of competition and improved rail performance and efficiency. The group wants to intensify the constructive relationships with the European institutions, and in particular with the European Commission, that have been developed over the past months. 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.

The work programme for 2013 is based on the following priority areas:

- promoting and improving harmonisation;
- addressing emerging challenges

The first priority area focuses on the principal aim of IRG-Rail: enhanced cooperation among Regulatory Bodies and further improved harmonisation.

The second priority area addresses challenges stemming from change in the institutional environment.

Possible 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 an input to new EU legislative developments like the upcoming Fourth Railway Package. Work outlined below, will be carried out by four thematic working groups established by the Plenary.

Reviewing the set up phase of IRG-Rail the group identified some areas of improvement in terms of procedures and structures. This is part of a normal process of practical experiences and must also be seen against the background of an ever growing IRG-Rail

which requires greater coordination efforts. Consequently a new taskforce will be set up to serve as an advisory group to accompany the IRG-Rail's present and future development.

2. Work programme 2013

2.1. Improving harmonisation

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.

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:

In order to ensure non-discriminatory access to international rail services it is necessary for Regulatory Bodies to efficiently coordinate their responsibilities.

For 2013 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.

Issues to be addressed:

IRG-Rail will:

- examine the IT-tool PCS (path coordination system is a web application that handles the communication and coordination processes for international path requests and path offers),
- review the contents and publication of the corridor network statements,
- review the results of the transport market studies,
- monitor the activities of the IM's for establishment the new corridors,
- develop common positions on key aspects of corridors, such as framework

- agreements, regulatory approach to network statements,
- further developing the common guidelines on regulatory cooperation regarding monitoring of the C-OSS (Corridor-One Stop Shop) and the IM's

Deliverable:

- up dating guidance on implementation of international freight corridors
- Memorandum of Understanding for PCS (web application provided by Rail Net Europe).

Activity 2 – Developing common approach to market monitoring

Background:

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, and in particular the rail transport market pursuant to article 10 of Directive 2001/12/EC. In addition, 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 2012 or 2013.

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 by discussing the implications of new data on the market. IRG-Rail aims to collect further data on international train movements.

Activities

In 2012, IRG-Rail developed a common list of indicators to produce an IRG-Rail market monitor. Additionally, IRG-Rail started a preparatory exercise based on 2009 and 2010 data and collected data for 2011. Data was received from 17 countries.

In 2013 IRG-Rail intends to;

- publish in January the first annual IRG-Rail market monitoring report
- prepare the second market monitor to be published in January 2014.
- develop a common approach on indicators for Rail Related Services. This will include preparing qualitative survey questions.
- explore further indicators to define international train movements.
- continue and explore statistical and econometrical analysis of the performance of the infrastructure manager.

Deliverable:

- 1st annual IRG-Rail market monitor report
- revised common list of indicators, including a new qualitative survey covering rail related services.

2.2. Emerging challenges

Activity 3 – Providing input for legislative proposals

Background:

In the end of March 2011 the European Commission announced its intention to propose a Fourth Railway Package 2012/2013 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.

With view to the implementation of the Recast of the First Railway Package the European Commission is expected to deliver secondary legislation, to which this Working Group will try to 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:

IRG-Rail will:

- provide input on development of the upcoming Fourth Railway Package;
- provide input on the implementation of the Recast of the First Railway Package especially with regard to upcoming Commission's secondary legislation;

Deliverable:

- position paper on Commission's draft proposal on the Fourth Railway Package;
- further position papers during the negotiation process;
- position papers on the Commission's secondary legislation proposals to the Recast as appropriate and possibly factual input on further implementing measures of the Recast

Activity 4 - Developing common approaches to charging issues

Background:

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.

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.

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:

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 and the capability of the market to bear them as provided under article 8.1 of Directive 2001/14/EC;
- seek to develop a common understanding of the handling of scarcity and congestion charges under article 7.4 of Directive 2001/14/EC.

Deliverable:

- Updated version of the 2012 review of current charging applications for the use of infrastructure (including description of present charging regimes, costs recovery principles, mark-ups, computation of incremental or marginal costs, etc.);
- Guidance on a charging regime, definition of good practices ("*cost that is directly incurred*", direct costs, mark-ups, etc.);
- Position paper on Commission's proposal for secondary legislation (e.g. modality on calculation of direct costs).

2.3. Identify key European railway initiatives

Activity 5 - Set-up of a taskforce as an informal advisory group

Background:

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 such initiatives by delivering regulatory input. In order to facilitate timely and efficient communication on key railway issues and to create a certain continuity, a taskforce serving as an informal advisory group at senior working level is to be set up. This group will consist of representatives of Regulatory Bodies of the current, previous and next chair of IRG-Rail. Members of other Regulatory Bodies would also be able to participate.

Some of the tasks to be addressed:

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

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	