



27 February 2015

Open letter to the attention of the transport advisors of the permanent representation of EU member states on the 4th Railway Package

Dear Madam, Sir,

The signatories of this letter representing logistics service providers (CLECAT) and shippers (ESC) would like to share with you their views and expectations regarding the further deliberations on the 4th Railway Package.

We would like to stress the importance of maintaining the key principles of the Commission's proposals, promoting a more independent management of the infrastructure and a greater level playing field between all operators. It is only through these important reforms to the political pillar that improved conditions for all players on the rail market can be secured which will ultimately lead to a better quality of service to the users of rail freight.

It is unfortunate that the current rail freight market is characterised by a low level of competition which is largely due to persistent discrimination in access to infrastructure and rail related services, thereby discouraging new entrants from entering national markets and offering cross border services. Competition should be encouraged as it remains the driver for improved efficiency and performance and reduced costs and prices.

Need for an independent Infrastructure Manager

CLECAT and ESC strongly support the greater responsibilities of the IM as reaffirmed by the Presidency text in *Article 7, paragraph 1*. The strengthening of the infrastructure manager will allow it to improve its performance and better manage the network in response to the needs of the users. As a natural monopoly, the IM must be fully independent from any other railway undertaking in the development, operation and maintenance of the rail network. The new Presidency text reaffirms that the infrastructure manager must be independent – legally, organisationally and in its decision-making.

CLECAT and ESC are concerned that an only partially independent IM will not create a level playing field for operators. This has the consequence of hampering competition on the rail market and deterring much-needed private investment in the rail sector. As long as a financial stake remains between the IM and the RU, there is a limited chance of a level playing field. Especially if the financial link is coupled with weak Chinese walls within a vertically integrated structure, as is the case in the new text. We would

therefore suggest to reinstate the deleted text from the original Commission proposal (*Article 7a 2*)-
“*Legal entities within the vertically integrated undertaking that are active in railway transport services markets shall not have any direct or indirect shareholding in the infrastructure manager. Nor shall the infrastructure manager have any direct shareholding in any legal entities within the vertically integrated undertaking active in railway transport services markets.*”

Coordinating Committees

CLECAT and ESC believe that Coordination Committees are important to ensure that the rail network is developed, in consultation with the needs of all users. However the new text removes the obligation to set up coordination committees. We understand that they are now only to be set up ‘upon request’. There is no longer a requirement for the Coordination Committees to be open to all users – representatives of the rail freight services are no longer automatically included. Also, the Coordination Committee no longer has the right to request relevant information from the infrastructure manager.

As users we are of supportive of initiatives to make infrastructure managers more customer-orientated, and an important step in this direction is ensuring coordination between the various actors in the rail sector through the Coordination Committees.

Therefore we wish to see the original Commission proposal maintained:

Reinstate “*Member States shall ensure that infrastructure managers set up and organise Coordination Committees for each network. Membership of this committee shall be open at least to the infrastructure manager, known applicants in the sense of Article 8(3) and, upon their request, potential applicants, their representative organisations, representatives of users of the rail freight and passenger transport services and, where relevant, regional and local authorities. Member State representatives and the regulatory body concerned shall be invited to the meetings of the Coordination Committee as observers*”

We would like to conclude this letter by stressing that it is crucial to conclude on a clear and transparent legal text at the end of this legislative procedure in support of a competitive rail freight market.

We thank you for the attention to our views.

Yours sincerely,



Nicolette van der Jagt
Director-General



Nik Delmeire
Secretary General

CLECAT is the leading voice on freight forwarding and logistics in Europe. Established in 1958, CLECAT represents and are supported by 25 member organisations working to promote a sound approach to transport and logistics across Europe, in support of the competitiveness of our industry.

The European Shippers' Council (ESC) represents cargo owners i.e. freight transport interests (import and export and intra-continental, by all modes of transport) of some 100,000 companies throughout Europe, whether manufacturers, retailers or wholesalers, which are collectively referred to as “shippers”.