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4th Railway Package: Time to close the loopholes on financial transparency

At a time when EU national governments stand accused of playing a double game on what they knew or didn't know regarding the robustness of vehicle emissions tests, ERFA is dismayed that the same double games are being played out over rail's future in Europe. This duplicity further jeopardises EU objectives for a more sustainable transport system.

There is strong evidence that transparency and fair competition both within the rail sector and with air and road will enable rail to grow, increase jobs and make a greater contribution to Europe's environmental agenda.

Despite Member States recognising the need for a more competitive rail sector, EU Member States have once more bowed to the pressure of the heavily vested interests of their monopoly incumbent railway companies and diluted the conditions needed to create a truly competitive European rail sector.

At this Wednesday's Coreper meeting, ERFA urges the Member State representatives to decisively close the loopholes on financial transparency.

There is no public interest or long-term strategic rail interest in allowing the diversion of much-needed public money and other revenue intended for infrastructure investment, to undermine the running of competing rail services. Allowing loopholes creates competitive distortions between EU Member States and within the rail sector.

The on-going ECJ court cases against Germany and Austria for failing to comply with EU financial transparency rules, highlight the on-going problems.

In both cases the accusation is that funds from the infrastructure manager may be used to cross subsidise other transport services open to competition, such as freight or passenger services. This type of cross-subsidisation is strictly forbidden under current rules, but is difficult to enforce by the regulators.

That is why as a priority ERFA supports the reinstatement of a provision which clearly states that the accounts of the infrastructure manager and of the other legal entities within a vertically integrated undertaking have to be kept in a way that ensures separate financial circuits within the undertaking. The separation of financial circuits is a pre-condition to ensure a sufficient level of financial transparency and to avoid cross-subsidization and discrimination. Without separate financial flows regulatory control is impossible.

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It is also important that any dividends from the infrastructure manager are paid to the ultimate owners of the company, be it the state or private shareholders, but crucially excluding the holding company from that meaning.

ERFA would also strongly advocate a clarification that the income from infrastructure management explicitly covers public funds. This creates legal certainty that public funds intended for infrastructure management are not misused.

The independence of the infrastructure manager is compromised on many levels, not least by the fact that the incumbent operator can have influence on the decisions taken on the essential functions and on the appointment and dismissals of persons in charge of taking decisions on the essential functions.

ERFA asks that to try and minimise the privileges this situation inevitably accords the incumbent operators, the prohibition on double mandates is strengthened.

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ERFA - European Rail Freight Association - represents new entrants, i.e. all those operators who want open access and fair market conditions, and sustains their role of pushing forward the development of the railway market. The Association is very much a spin-off of the First Railway Package, adopted by the EU in 2001, and its vision of creating an open and competitive European rail market.

In 2015, ERFA represents 33 members from 16 countries. The members of ERFA all share a commitment to work towards a competitive and innovative single European railway market by promoting attractive, fair and transparent market conditions for all railway companies.

The members of ERFA represent the entire value chain of rail transportation: rail freight operators, wagon keepers, service providers, forwarders, passenger operators and national rail freight associations.