

## Input Paper – 4<sup>th</sup> Railway Package: Governance

20<sup>th</sup> April 2015

### Eliminating the weak links in the rail chain is essential to improving the performance of the rail system

In supporting growth and development of rail across Europe, ERFA seeks an infrastructure manager as a business partner of railway undertakings, one that is fully responsible for ensuring the quality of service for its users.

By actively contributing to the improved performance and reliability of the whole network, the infrastructure manager can play a vital role in improving confidence in the rail system, attracting new services and customers to rail.

ERFA believes that an efficient management of the infrastructure can best be achieved by building on the essential functions of the infrastructure manager (already defined by the Recast regulation as path allocation and charging) and extending its role to comprise all functions and full independence linked to the operation, maintenance and development of the rail infrastructure.

For this reason ERFA strongly supports the spirit of the initial Commission proposal (Article 3a, point 2) that foresees a central role for a fully empowered and independent IM to deliver efficient infrastructure management.

ERFA believes that any limitation to the central role of a fully independent IM in the rail system drags down the performance of the whole network. ERFA therefore urges for the core concepts of independence and full functionality of the IM to be maintained.

- **ERFA supports the following:**

Specific requirements regarding organisational and decision-making independence when it comes to the essential functions (Article 7a 2). In particular:

The prohibition for RU management to exercise decisive influence over IM; the appointment of persons in charge of essential functions to be made by an independent body; possibility for persons responsible for decision-making on essential functions to appeal to the regulatory body against premature termination of their contracts; mobility of staff to ensure no conflicts of interest are created.

**These criteria are helpful additions in strengthening the concept of “organisational and decision-making independence”.**

- **ERFA strongly opposes the following:**

The new compromise proposal opens the possibility for Member States not to apply the independence requirements established in Article 7 a (2) if by 16 June 2015 the IM was not independent of any RU and the essential functions were entrusted to an independent body “provided that such body is independent in its legal, organisational and decision-making form from any RU”.

ERFA believes that an infrastructure manager subject to effective decision-making and organisational independence when it comes to the essential functions is the optimal way to ensure the quality of service for RUs operating on the rail network. **On what basis can weaker independence requirements for one or other rail network be justified in this way?**

- **ERFA supports the following:**

Non-discriminatory and independent approach to traffic management and maintenance planning. The new Presidency compromise proposes a new standalone provision ( Article 7b) regarding the impartiality of the IM in respect to traffic management and maintenance planning.

The requirement for these functions to be carried out in an independent and non-discriminatory manner is essential. (7b 1)

If RUs request to be “associated” to traffic management, traffic management must be granted to RUs in a non-discriminatory way. (7b 2)

**ERFA would welcome clarification over the concept of “association to traffic management.” It must not become a tool that results in discrimination** for RUs who may choose not to be associated to traffic management in this way. Furthermore for railway undertakings operating in cross-border services, across several Member States, it may not always be feasible for “association of traffic management” to take place in each and every country and ERFA would urge against any provisions that might disadvantage cross-border services.

Regarding planning of maintenance, ERFA strongly welcomes that IMs shall consult applicants and shall take into account the concerns expressed. (7b 3)

- **ERFA expresses concern at the exemptions creeping in for public-private partnerships (Article 2, point 12)**

Regardless of whether the infrastructure has been built with public or private money or both ERFA strongly believes that the non-discriminatory approach should be applied to the management of the infrastructure.

**Private investment in the rail network should not result in a closing up of the European rail network.**



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