

5 December 2012

President José Manuel Barroso
European Commission
Berlaymont, Rue de la Loi, 200
1049 Bruxelles

By e-mail: jose-manuel-barroso@ec.europa.eu

Dear President,
Dear Mr. Barroso,

Concerns: Rail transport policy – The soon issue of a 4th Railway Package

You are totally aware of the 4th railway package proposal to be issued soon. ERFA takes contact with you to underline that from your opinion and those of your Commissioners will depend the future of the European rail sector.

ERFA asbl – the European Rail Freight Association – was founded in 2002 with the 1st Railway Package (European directives 2001/12,13,14/EC) to promote European rail freight transport and the stakeholders active in that area **through the complete liberalization of the market**. We represent 21 companies directly and 7 national associations (grouping themselves more than 100 other companies) active in 16 countries.

We are flexible market-openers ... but this is really no simple task. We face strong opposition and resistance from some MS and their national historical champions, combined with fear of change in their habits and positions. We have had to contend with a lot of institutional, technical and operational barriers. Within 6 years, we issued 30 complaints to the Commission, leading to several infringement procedures against MS. We had to battle to secure the application in MS of the requests in the 1st Railway Package; we pushed for a recast and we succeeded. Now the recast is voted and to be implemented afresh in the MS. But in the meantime - even if the recast finally bring substantial improvements - the opening of the European railways market has been pushed back by 10 years! ... And it stays hard for the private and independent new Entrants to resist so long with very small margins! We have really to believe in Europe to do so!

ERFA takes directly contact with you because we urgently need the 4th railway package in order to clarify the EU legislation in terms of governance of the rail system and avoid all misinterpretation which may lead to considerable delays in the European construction.

We also need it to prevent situations as in France where the national domestic dominant operator uses the current uncertainty to control the whole French railway system in reintegrating the infrastructure manager under its management. This sends 2 dangerous messages to the rail community:

- No need to improve: everything is under control!
- Finish with competition!

A system which is not driven to improve will die. By lack of competition, the European Rail System will be at danger.

It is why ERFA is supporting so actively the final master works proposed by the Commission as expressed in the various latest communication of Vice-President Kallas and its DG MOVE team. The proposal needs at least to include clear directives on the governance of the railway infrastructure:

- In conflicted integrated structure, the strict financial and operational separation of the railway undertaking and the infrastructure manager,
- Provision to avoid conflict of interest in between components of an integrated group,
- A transitory period to allow conflicted integrated group to come a full separation,
- The domestic passenger opening which will naturally benefit to the freight opening process,

and will also review:

- The role of ERA in order to reinforce its power,
- The related safety and interoperability directives which will be improved accordingly.

ERFA also reinstate its support to small non conflicted integrated structure which still needs to be accommodated in a harmonious dedicated way in this new framework.

We are aware of the intensity of the lobby of some historic operators and their related associations pleading sometimes for a total (re)-integration. This lobby is even more intense that the one of a member state which is not acceptable from a democratic point of view. But we know that you will take also in consideration the opinion of our members.

You will find our detailed opinion in the enclosed position paper from 12th October 2012 and would be pleased if you visit our Web site www.erfarail.eu to discover our recent actions in the rail freight sector and its market opening.

Should you need complementary information, do not hesitate to contact us.

With our best regards,

Yours very sincerely,



Pierre TONON
Secretary General



François COART
President

In annexes

- ERFA Presentation - 5122012
- ERFA Position paper on the 4th Railway Package