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ALLRAIL urges Commission to challenge Slovakia Government to comply with 4th Railway Package and encourage Above Rail competition.

ALLRAIL, the association of independent passenger and freight rail companies, asks the European Commission to take urgent action against the Slovak Government (Slovak Ministry of Transportation) and the Slovak Transport Authority, which are seeking to block a new international passenger service between Bratislava and Prague planned by the ALLRAIL member Regiojet. By doing so, they are acting against EU legislation establishing the basic right to launch commercial open-access international train services, in favour to protect the state-owned train operator ZSSK.

The new EU 4th Railway Package is designed to encourage Above Rail competition because, as proven already in many member states, it brings better service quality, major savings in public financing, more competitive fares and growth in rail traffic volumes. The only means of preventing new open access services from starting is if an economic test (the Economic Equilibrium Test) on a particular route or groups of routes demonstrates that a new service would significantly abstract revenue from existing publicly subsidised domestic (PSO) services.

In Slovakia, the Government has introduced legislation to seek to prevent the Bratislava-Prague service from continuing by requesting an EET on the route, *even though* there is no competition from a Slovakia PSO. Indeed: there will be no domestic passengers on the Slovak territory – from the Slovak perspective the new RegioJet services between Bratislava and Prague will be fully international with no intermediate stop between Bratislava and the Czech border.

In such a case, no EET should need be undertaken and the Slovak Transportation Authority should immediately interrupt the whole process – it is breaking European legislation and the legal environment for open competition on international railway lines.

This has also been expressed in an opinion sent by DG MOVE to RegioJet and Slovak authorities which confirmed that, in the case of such exclusively international railway connections, no EET should be undertaken.

Quotation extract from letter sent by DG MOVE:

“Consequently, we consider that an international service without intermediate stops in a Member State could not, by definition, have a substantial negative impact on a public service contract which has a national scope, as appears to be the case here. For that reason, in the present case the economic equilibrium test should not be

performed since Art. 11 of Directive 2012/34 allows for such a test to take place only in the circumstances described above...'

The EET undertaken at the request of the Slovak Government found that the new Regiojet service would abstract just 0.4% of the compensation to be provided to the PSO operator and on that basis stated that Regiojet should not continue its open access service.

ALLRAIL believes that the basis for running this EET and its conclusion were flawed. It should not have been run at all, since the result could only have shown an abstraction of zero. Even if it were a 0.4% abstraction, that is hardly a reason for preventing the new service operating, which has to be on the basis of 'significant' abstraction.

Erich Forster, President of ALLRAIL, commented: 'This discrimination against a private operator seeking to start a new international service is wrong. The Slovakia Government is seeking to ignore the EU 4th Railway Package legislation, to which it put its name, and prevent the operation of a new and competitive service, which does not affect existing PSO services at all.

'ALLRAIL urges the European Commission to take urgent action to ensure that the Slovakia Government complies with this important legislation, amends any national legislation introduced to block new entrants, and ensure that the independent regulatory body is allowed and encouraged to perform its duties without state interference.

'Such action by the Commission should also serve to remind other member states' governments that they must comply with both the letter and the spirit of the EU 4th Railway Package designed to open the market to fair, transparent and wide-ranging competition for the benefit of passengers.'

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Notes to editors:

ALLRAIL represents new entrants to the rail market, who want open access and fair market conditions, and sustains their role of pushing forward the development of the railway market. The members of ALLRAIL share a commitment to work towards a competitive and innovative single European railway market.

ALLRAIL was established end of March 2017 in Brussels and to date represents 8 members from across Europe: ERFA (representing 30 rail freight companies), ILSA, LEO Express, MTR Nordic, NTV, Regiojet, Trainline and WESTbahn.