

## HOW CAN TRACK ACCESS CHARGES SUPPORT A COMPETITIVE RAIL SECTOR?

ERFA strongly welcomes Germany's decision to reduce track access charges in order to make rail freight transport more competitive with the other modes of transport. The European Commission's recent approval<sup>1</sup> of the German state aid scheme sends a clear message to other EU national governments: reduction of track access charges and a transfer of those lower costs to end customers is a positive step forward for getting more goods onto rail!

In this paper ERFA highlights concerns regarding track access charges and actions that can be taken to ensure that rail charging schemes support a more competitive rail freight sector.

### HIGH COSTS ARE A BURDEN ON RAILWAY UNDERTAKINGS

Track access charges are an important cost element of the railway undertaking business. Railway undertakings often feel that they are paying too much. Too much in terms of what they should be paying to cover "direct costs" and especially too much in terms of the limited comparable tolls road hauliers have to pay for accessing road infrastructure.



### A BARRIER FOR MODAL SHIFT

Railway undertakings are in competition with other modes of transport for attracting customers. If their cost base is too high this reflects the price they can offer the end customer and if the price is not competitive the freight will move by road.

In addition, Railway Undertakings often see increases in access charges without necessarily any corresponding improvements in the quality of the infrastructure/ paths, meaning that they cannot offer their customer any improved quality or added benefits for the higher costs.

### HOW CAN THE EUROPEAN CHARGING FRAMEWORK HELP KEEP COSTS LOW?

As national governments do not cover the whole costs of rail infrastructure, Infrastructure Managers (IMs) have to recover the costs that are not covered by state funding. EU legislation<sup>1</sup> helpfully sets out the main charging principles for IMs and specifies which costs the IMs can pass on to railway undertakings.

<sup>1</sup> Implementing Regulation 2015/909, Recast Directive 2012/34

## 1) Reduction of track access charges in the form of compensation for lower external costs of rail

EU legislation also allows for Member States to put in place compensation schemes for railway undertakings for unpaid environmental, accident and infrastructure costs.

*Member States may put in place a time-limited compensation scheme for the use of railway infrastructure for the demonstrably unpaid environmental, accident and infrastructure costs of competing transport modes in so far as these costs exceed the equivalent costs of rail".<sup>2</sup>*

Germany has recently made use of this provision to almost halve track access charges for rail freight companies.

### German aid scheme to reduce track access charges, as approved by the European Commission

#### Key elements:

- Rail freight undertakings should see about **40-45% reduction of track access charges**.
- Railway undertakings must inform their customers and take the aid into account in their pricing. The measure will have effects in **fostering modal shift to rail and encouraging customers to choose rail over road transport**.
- The amount of resources dedicated to reduce track access charges account for **EUR 350 million annually from 1st July 2018 to 30th June 2023**.
- The scheme is financed by German federal budget funds.
- The basis for the calculations are the approved track access charges, the projected operating performance for the specific market segments and the available budget.

#### The aid is approved by the European Commission under the following conditions:

- It is granted on a **transparent and non-discriminatory basis** (to German RUs and RUs operating on the German rail network)
- **The reduction is based on compensation for the part of external costs that are avoided** by the use of rail freight transport instead of road

ERFA strongly welcomes Germany's reduction in track access charges and urges other Member States to adopt similar schemes.

<sup>2</sup> Recast Directive 2012/34, Art 34

## 2) Weakness and gaps in EU rules that have a negative impact on the RU business

ERFA highlights weaknesses and gaps in how the EU rules are applied at national level, and which have a negative impact on the railway undertaking business.

### Key ERFA concerns:

#### 1. HOW IS THE EU PROVISION THAT INFRASTRUCTURE MANAGERS SHOULD LOWER ACCESS CHARGES APPLIED?

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***“Infrastructure managers shall, with due regard to safety and to maintaining and improving the quality of the infrastructure service, be given incentives to reduce the costs of providing infrastructure and the level of access charges”.***<sup>3</sup>

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ERFA would like to see a commitment by Infrastructure Managers to reduce their costs with the cost savings passed on to Railway Undertakings in the form of lower track access charges.

An Infrastructure Manager enjoys a natural monopoly. In many cases there are no mechanisms in place for ensuring that Infrastructure Managers keep their costs under control. Incentives should therefore be put in place to reduce costs and manage the infrastructure efficiently as laid down in the Recast Directive. Ambitious efficiency targets should be set with the support of measurable KPIs.

#### 2. ARE MARK-UPS ALLOCATED ON A FAIR BASIS?

EU legislation states the following:

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***“In order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may, if the market can bear this, levy mark-ups on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimal competitiveness of rail market segments. The charging system shall respect the productivity increases achieved by railway undertakings”***<sup>4</sup>

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In calculating mark-ups, it is important not to forget the importance of guaranteeing the competitiveness of rail market segments. Choosing the right level of mark-ups and ensuring the right analysis for their calculation would avoid situations where high mark-ups or incorrect calculation of mark ups leads to a reduction in rail traffic.

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<sup>3</sup> Recast Directive 2012/34, Art 30, paragraph 1

<sup>4</sup> Recast Directive 2012/34, Art 32, paragraph 1

### 3. CANCELLATION CHARGES

Railway undertakings are having to pay for cancellation of international train paths, even when the cancellations were due to a force majeure incident on a national network.

As the force majeure reason is only accepted on a national level, the incurred cancellation/reservation charges of the international legs of the train path are charged by the other infrastructure managers.

Not only do Railway Undertakings face the disruption of their train services, but the cost of paying the cancellation charge is an important cost burden for the rail freight business.

ERFA urges Infrastructure Managers to adapt their charging systems to support cross-border rail services.

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***“Member States shall ensure that Infrastructure Managers cooperate to enable the application of efficient charging schemes, and associate to coordinate the charging or to charge for the operation of train services which cross more than one infrastructure network of the rail system within the Union”<sup>5</sup>***

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### 4. ADDITIONAL COSTS OF TRAIN DIVERSIONS

ERFA is also concerned at the additional track access charges that Railway Undertakings sometimes have to pay when their train is diverted onto another national network. If a train is diverted on another route within the national network, the Infrastructure Manager does not oblige the railway undertaking to pay the additional track access charges linked to the longer route. However this does not always seem to apply when a train uses a diversionary route on a neighbouring network, again disadvantaging international rail services.

ERFA asks Infrastructure Managers to abide by the EU Commission’s very clear position on this issue:

Commissioner Bulc’s EU Transport Commissioner Bulc’s response letter (dated 26.10.2017) to the Rastatt open letter states the following:

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***“EU rail legislation provides that a railway undertaking shall not be charged for the additional costs if the train is diverted at the request of the infrastructure manager. In accordance with Article 37 of Directive 2012/34/EU, infrastructure managers are expected to cooperate on charging schemes, in particular with a view to guaranteeing the optimal competitiveness of international rail services.***

***Infrastructure managers should establish mechanisms between themselves to make sure that additional costs incurred by the diversion of a train - including on neighbouring networks - will not be included in the access charges paid by the railway undertakings on international services.”***

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Railway Undertakings should not be doubly penalised for disruptions caused on the rail network, which often already mean higher costs in terms of longer deviation routes, higher staff costs and delays.

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<sup>5</sup> Recast Directive 2012/34, Art 37

## Conclusions

**We expect Member States and Infrastructure Managers to play an important role in increasing the modal split of rail freight. The following measures should contribute to solve some of the problems which are still hampering the development of the entire rail freight sector.**

### **Reduction in Track Access Charges to account for rail's lower external costs**

- **More efficient Infrastructure Managers through comparable benchmarking, increasing traffic and more efficient control of the costs**
- **Increasing controls on how mark-ups are calculated and their impact on the rail business**
- **Supporting the competitiveness of international rail services by adapting charging schemes to the Single European Railway Area.**

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ERFA - European Rail Freight Association -

The European Rail Freight Association (ERFA) has been created in 2002 by a handful of new rail freight operators. Established now as the voice of private and independent rail freight companies from across Europe, our aims are to get customers to choose rail freight as the mode of choice and to ensure rail plays a central role in the EU's sustainable transport vision. ERFA promotes a rail freight sector where there is competition and fair access to the rail network.

In 2018, ERFA represents 30 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.