IRG-Rail (12) 2a

Annex

to the Position Paper

"Input to upcoming Fourth Railway Package"

Description of existing arrangements in the following IRG-Rail countries:

Austria, Croatia, Estonia, Finland, France, the former Yugoslav Republic of Macedonia, Germany, Greece, Hungary, Latvia, the Netherlands, Norway, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom

Independent Regulators´Group - Rail

Regulatory Authority: Schienen-Control GmbH

Country: Austria

1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? The Austrian domestic market is open by law since 1998 for national operators. So far there are 2 entrants: City Airport Train (CAT) since Dec. 2003 and WESTbahn since Dec. 2011.
	1.2 Is there a competitive tendering of public service contracts in your country? There is no competitive tendering, PSO contracts continue to be awarded without tendering. Apart from the incumbent there are some other operators with own infrastructure which act like local monopolies and have their own PSO contracts. PSO contracts are provided by the Ministry of Transport for a basic timetable, regional authorities have contracts on additional services. The recent PSO contract awarded to ÖBB until 2019 is divided into packages and has a clause that some packages may be put up to tendering at an earlier stage.
	1.3 Please explain the organisation of ticketing in your country. Austria is covered by eight integrated ticketing organisations. Within each organisation railways, buses and urban transport are integrated and passengers have to use a ticket of the organisation. For journeys passing the borders of one organisation the fares of the railway operator apply. Ticket prices within a ticket organisation are usually cheaper than standard fares (especially when combining different transport operators), as they are subsidised. Any new operator may join the integrated ticketing organisations.
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? No tendering has taken place so far so there is no approach to this issue. However, it should be noted that some new rolling stock has been subsidised with public money.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? No
	1.6 How are Public Service Obligations defined? Public Service Obligations are transport services whose costs cannot be covered entirely from fares revenue and require additional finance from public bodies. Fares revenue includes subsidies received from public bodies for certain discounts and for integrated tickets.
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? The role of the Austrian regulator is limited to supervision of providing PSO contracts in a non-discriminatory way.	
3. Please insert some statistics with respect to:	

		2009	2010	2011
	3.1 the number of operators	14	15	15
	3.2 details of ownership for those operators (private sector vs public sector)	Private sector: 1 Public sector: 13	Private sector: 1 Public sector: 14	Private sector: 1 Public sector: 14
	3.3 the number of open access operators	1	1	2
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	Passengers (million): 239,7 Passenger-km (billion): 10,7	Passengers (million): 242,1 Passenger-km (billion): 10,8	Passengers (million): 244,0 Passenger-km (billion): 10,9

Regulatory Authority: Rail Market Regulatory Agency **Country: Croatia**	
1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Candidate State have an open access approach for domestic passenger services? Croatia as a Candidate State does not recognize any limitation on access for domestic passanger service. Railway law stipulates conditions to be fulfilled for railway operators (passanger and freight) which can apply for infrastructure capacity. So far except incumbent historical state owned passanger operator there is no new entrant.
	1.2. Is there a competitive tendering of public service contracts in your country? There is no competitive tendering of public service contracts in Croatia nor direct contracting. Single passenger operator in Croatia just applies for the use of infrastructure.
	1.3. Please explain the organisation of ticketing in your country. Passengers can buy tickets in railway stations, directly on train and through travel agencies. The incumbent manages it own ticketing system and facilities. Some tickets are used in multimodal transport, only in suburban transport in City of Zagreb, where with these ticket you are entitled to use tram, buses and trains.
	1.4. What is the procurement approach in your Candidate State with respect to access to rolling stock? The procurement of new rolling stock by incumbent should be carried out in line with relevant legislation on public procurement in Croatia. Access to the rolling stock is not regulated by the railway law. Only safety issues of rolling stock are regulated. Access to the rolling stock owned by the incumbent is regulated by the civil law.
	1.5. Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? The regulatory body is not involved.
	1.6. How are Public Service Obligations defined? Railway act, Art. 39, defines PSO as services of general economic interest (in public railway transport which can be services of railway passenger transport in domestic traffic (regional, local, commuter and city traffic) and combined transport services.

The main principle, which is stipulated in the law, is operating the traffic at tracks where revenues earned from carriage cannot cover the expenses, and ensuring equal status of railway undertakings and undertakings operating other transport modes. The Government or units of local and regional self-government may reimburse a part of funding designated for development and a part of carriage expenses to individual railway undertakings operating the railway transportation services of general interest, upon their request.

2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas?

RB does not have any concrete role with respect to the above mentioned areas. PSO and PSC are not strictly mentioned among competences of RB, but competence can be interpreted as role of regulator. RB is in charge for market monitoring in aim to safeguard transparent and non-discriminatory performance of rail transport activities, which are performed as public transport services and which ensure open and non-discriminatory behaviour between infrastructure managers and rail operators. There is only one historical passenger operator. For the time being there is no abuse of dominant position until new entrant comes. RB made research and analysis of legal framework of PSO and result will be published to the Parliament.

3. Please insert some statistics with respect to:

	2009	**2010**	**2011**
3.1 the number of operators	1	1	1
3.2 details of ownership for those operators (private sector vs public sector)	state owned	state owned	state owned
3.3 the number of open access operators	0	0	0
3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms)	1.026.000.000 pkm	992.000.000 pkm	1.044.000.000 pkm

Regulatory Authority: Estonian Competition Authority **Country: Estonia**	
1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? Please explain. **Yes, we have generally speaking open access approach for domestic passenger services. Anybody who has licence and safety certificate is welcome to operate a passenger train but not under PSO.**
	1.2 Is there a competitive tendering of public service contracts in your country? Please explain. **There is no competitive tendering of PSO contracts at the moment. Before signing a PSO contract the competent authority (ministry) take offers from different players of the market but this is not the competitive tendering process in the meaning of Regulation (EC) No 1370/2007.**
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? **There is no rolling stock market in Estonia which can be procured because of the size of the market (too small).**
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? **No**
	1.6 How are Public Service Obligations defined? **PSO definition is given in the Article 2 of Regulation (EC) No 1370/2007**
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? This is mainly the area of the Ministry of Economic Affairs and Communications.	
3. Please insert some statistics with respect to:	

	2009	2010	2011

	3.1 the number of operators	3	3	3
	3.2 details of ownership for those operators (private sector vs public sector)	Private sector: 2; Public sector: 1	Private sector: 2; Public sector: 1	Private sector: 2; Public sector: 1
	3.3 the number of open access operators	3	3	3
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms)	249 milj. passenger kms	248 milj. passenger kms	241 milj passenger kms

IRG-rail
Independent Regulators´Group - Rail

Regulatory Authority: The Finnish Transport Safety Agency

Country: Finland

1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? No. In Finland, the domestic passenger market hasn't been opened to competition.
	1.2 Is there a competitive tendering of public service contracts in your country? No.
	1.3 Please explain the organisation of ticketing in your country. The incumbent deals with ticket selling and decides the prices of tickets. In addition, the most of passenger stations are owned by the incumbent.
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? Access to rolling stock is not regulated in Finland. Because of the different track gauge it is very challenging for the new entrants of the rail freight market to procure suitable rolling stock.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? No.
	1.6 How are Public Service Obligations defined? The competent authorities, Helsinki Regional Traffic –authority (in Helsinki Metropolitan area) and the Ministry of Transport and Communications, have made the public service contracts with VR-Group (incumbent), providing an exclusive right for the operator in the railway infrastructure in which it is operating. The mentioned public service contracts are valid until the end of year 2017 in the Helsinki Metropolitan Area and until the end of year 2019 in the rest of the network in which VR-Group was operating in 2009. Basically, this means that any operator could enter into the market in other parts of the railway network already at the moment if fulfilling safety, license and technical requirements. In practice, the public service contract between the Ministry and Transport and Communications and VR-Group covers most of the passenger transport lines in Finland.
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? The regulatory body monitors and ensures the functionality of the railway market and the equal and non-discriminatory treatment of operators. It is specifically required to monitor the process of rail capacity allocation, the infrastructure charges, the availability and pricing of rail related services and the network statement.	

3. Please insert some statistics with respect to:				
		2009	**2010**	**2011**
	3.1 the number of operators	1	1	1
	3.2 details of ownership for those operators (private sector vs public sector)	state owned	state owned	state owned
	3.3 the number of open access operators	-	-	-
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	Rail Traffic Movements/Train kilometres (including both national and international traffic): 35 120 000; Rail Traffic Usage (transport performance) (including only national traffic): 3 785 000 000	35 048 000; 3 869 000 000	35 578 000; 3 767 000 000

Regulatory Authority: Autorité de regulation des activités ferroviaires (ARAF)

Country: France

1. General Framework of domestic passenger market and organisation of public service operations				
	1.1. Does your Member State have an open access approach for domestic passenger services? French domestic passenger market is closed to the completion. Thus, no open access services are provided.			
	1.2 Is there a competitive tendering of public service contracts in your country? According to the article L. 2142 of the transport Code, SNCF, the incumbent, has a legal monopoly to provide domestic passenger rail transport services.			
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? No provisions on rolling stock.			
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? ARAF has no legal powers in that respect.			
	1.6 How are Public Service Obligations defined? Transport authorities are in charge of the definition of public service obligations in railway transport.			
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? ARAF has no specific concrete role in market opening. Nevertheless, the article L. 2131-1 of the Transport Code prescribes to the RB to participate in a good functioning of the public service and in competition activities. Moreover, ARAF monitors whether the Infrastructure Manager and the owner of service facilities act non-discriminatory towards all railway undertakings.				
3. Please insert some statistics with respect to:				
		2009	**2010**	**2011**
	3.1 the number of operators	1	2	2
	3.2 details of ownership for those operators (private sector vs public sector)	SNCF incumbent 100% owned by state.	SNCF incumbent 100% owned by state.	Thello: Veolia and Trenitalia (night train)

			Thello: Veolia and Trenitalia (night train)	Thello: Veolia and Trenitalia (night train)
	3.3 the number of open access operators	1	2	2
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	100% the incumbent	99,6% the incumbent 0,4% new entrant	98,8% the incumbent 1,2% new entrant

Regulatory Authority: RRA – Railway Regulatory Agency

Country: the former Yugoslav Republic of Macedonia

1. General Framework of domestic passenger market and organisation of public service operations				
	1.1. Does your Member State have an open access approach for domestic passenger services? In the Former Yugoslav Republic of Macedonia there is still no open access for domestic passenger service.			
	1.2 Is there a competitive tendering of public service contracts in your country? The PSO provider for domestic rail passenger service was not chosen by competitive tendering.			
	1.3 **Please explain the organisation of ticketing in your country**. Passengers can buy tickets in railway stations or directly on train.			
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? The procurement with respect to access to rolling stock is not regulated, as the only service provider (incumbent) owns his rolling stock.			
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? No, we are not involved in addressing those issues.			
	1.6 How are Public Service Obligations defined? PSO for providing domestic passenger transport is a direct contract between state and operator, which is based on the national legislation.			
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? According to the PSO contract, the railway operator is obliged to keep records on regular basis concerning the services that are provided for the passengers. The operator has an obligation to send these records on every four months to RRA and the Transport Ministry. Furthermore, the quality criteria of services provided for the passengers by the railway operator are set by the RRA, which also carries out the control over the quality of the provided services.				
3. Please insert some statistics with respect to:				
		2009	**2010**	**2011**
	3.1 the number of operators	1	1	1

	3.2 details of ownership for those operators (private sector vs public sector)	state owned	state owned	state owned
	3.3 the number of open access operators	-	-	-
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	154502209	154705007	145290876

Regulatory Authority: Bundesnetzagentur

Country: Germany

1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? Germany has had an open access approach for all domestic passenger services since 1994.
	1.2 Is there a competitive tendering of public service contracts in your country? To ensure a sufficient level of passenger services, regional authorities tasked with ordering such services can award contracts to RUs in order to subsidise such passenger services. These contracts are either tendered or awarded directly.
	1.3 Please explain the organisation of ticketing in your country. The general principle of the German railway market is competition between all RUs. This general principle also applies to ticketing and tariffs, except for transport associations dealing with regional passenger transport. RUs as well as regional transport associations may – but do not have to – choose a ticket distributor. However, RUs are legally obliged to work towards establishing through-tariffs. This is currently realised by most RUs cooperating in the "Tarifverband der Bundeseigenen und nicht bundeseigenen Eisenbahnen" (tariff association of state-owned and private railways, German abbr.: TBNE) which is dominated by DB Regio AG (a subsidiary of Deutsche Bahn AG). TBNE uses the tariff system of Deutsche Bahn AG. To be a part of TBNE, RUs must not only make their tickets interavailable but they must also accept a contract with DB Vertrieb GmbH (i.e. "DB Distribution", also a subsidiary of Deutsche Bahn AG) setting the terms for ticket distribution. DB Vertrieb GmbH is the main distributor of tickets in the German railway market. It is neither IM nor RU and thus not regulated by Bundesnetzagentur. Apart from TBNE there are many regional transport associations which cover tramways, busses etc in addition to railways which also have their own tariff systems including interavailable tickets.

	There are currently no through-tariffs for long-distance passenger services.
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? In principle, it is up to the RU to procure its own rolling stock. However, some regional transport authorities have taken it upon themselves to create pools of rolling stock respectively to develop models for financing rolling stock in order to facilitate bids on tenders.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? No.
	1.6 How are Public Service Obligations defined? German law refers to Regulation (EEC) 1191/69 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway.

2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? Bundesnetzagentur monitors all access to railway infrastructure and service facilities according to Directives 91/440/EEC and 2001/14/EC.

3. Please insert some statistics with respect to:

		2009	2010	2011
	3.1 the number of operators(rail passenger service)*:	107	113	
	3.2 details of ownership for those operators (private sector vs public sector)	(public)**: 53 (private)**: 54	62 51	
	3.3 the number of open access operators	107	113	
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	Bn Passenger kilometres in Intercity Transport***:35; Bn Passenger kilometres in Local Transport***: 47 Bn Passenger	36	36

		kilometres in Rail Transport***: 82	48 84	49 85

* as known to the BNetzA; 2011 data is actually not complete due to the yearly market survey being still in process

** if an operator has stated to be controlled neither by public nor private he has been counted as “private” (most of those operators are registered associations)

*** based on data collected by Destatis (Statistisches Bundesamt)

Regulatory Authority: Greek Regulatory Authority for Railways ("RAS") Country: Greece	
1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? Please explain. Greece has no open access approach for domestic passenger services.
	1.2 Is there a competitive tendering of public service contracts in your country? Please explain. The incumbent (TRAINOSE) is the sole operator of PSO until the end of 2013. From then on PSCs will generally be awarded by means of competitive tender, as provided for in the Greek Legislation.
	1.3 Please explain the organization of ticketing in your country. Concerning the ticket distribution and sale system, the incumbent itself is responsible for selling and issuing the tickets mainly at the railways stations. The tickets can also be reserved and issued through the incumbent's website.
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? The existing rolling stock belongs to the IM (OSE). The biggest part of it has been leased to the incumbent (TRAINOSE) for 2011 and 2012 with an option to extend the lease contract up to 2013. The rolling stock that is not used/needed by TRAINOSE shall be transferred to a body which will lease it by market conditions to interested railway undertakings, including winners of PSO tenders, as per 1.2 above.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? RAS is not involved in any relevant activity.
	1.6 How are Public Service Obligations defined? As per art. 2 of Regulation 1370/2007/EC.
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? RAS should not be and is actually not involved in any activities related to points 1.1, 1.5 and 1.6. As for point 1.2, the role of RAS is to investigate cases of cross-subsidy in existing PSCs, while RAS generally assumes its statutory duties concerning assuring non-discrimination for points 1.2, 1.3 and 1.4.	

3. Please insert some statistics with respect to:				
		2009	**2010**	**2011**
	3.1 the number of operators	2 [*]	2 [*]	2 [*]
	3.2 details of ownership for those operators (private sector vs public sector)	Incumbent, 100% state-owned	Incumbent, 100% state-owned	Incumbent, 100% state-owned
	3.3 the number of open access operators	0	0	0
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms)	1.413.918.000	1.337.247.000	954.454.000

[*]: - TRAINOSE: Incumbent of OSE (former State Railway Organisation, currently IM), active on the entire network

- STASY: State-owned Metro & Tram Operating Company sharing with TRAINOSE a 20 km section of the Athens International Airport – Athens City Center main line

Regulatory Authority: National Transport Authority

Country: Hungary

1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? Partly, railway undertakings that are registered (and licensed) in Hungary are entitled to provide domestic passenger services.
	1.2 Is there a competitive tendering of public service contracts in your country? No, public service contracts are directly awarded on the national rail passenger market. According to the law, such contracts could be awarded by tendering as well though contracts for the national market have not been awarded in that way yet.
	1.3 Please explain the organisation of ticketing in your country. Ticket prices for public services are determined by the ministry responsible for transport. Certain groups of passengers (e.g. students, retired persons) can buy discounted tickets, the extent of the discount (in per cent) being laid down by the ministry, too. The difference between the price of a normal and a discounted ticket is covered by the state budget. Some services (ICs, ECs) can be used only with supplementary tickets, most of which include seat reservation. Tickets can be bought in stations at the cashier, from conductors, from ticket machines of the operators or via internet. (Tickets bought via the websites of the operators can be printed from machines in stations or at home.)
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? Passenger coaches, DMUs and EMUs are mostly owned by the operators. In the case of the bigger operator, traction (locomotive and drivers) is mostly provided by another RU, which is owned by the IM and the operator itself.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? No.
	1.6 How are Public Service Obligations defined? The Act on passenger transport defines public service obligations as 'all obligations defined in Article 2, Point e) of Regulation 1370/2007'.
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? The RB is responsible for the monitoring and supervision of non-discriminatory access to railway infrastructure and service facilities. The RB may decide that RUs running trains not on the basis of a PSO contract on a section of the network which is served by	

trains under a PSO contract shall pay compensation for the competent authority.				
3. Please insert some statistics with respect to:				
		2009	**2010**	**2011**
	3.1 the number of operators(rail passenger service)*:	3	3	3
	3.2 details of ownership for those operators (private sector vs public sector)	MÁV-Start Zrt.: owned by MÁV Zrt., which is the IM GYSEV Zrt.: owned by the Hungarian and the Austrian state and a private company MÁV Nosztalgia Kft.: owned by MÁV Zrt. and a private company		
	3.3 the number of open access operators**	1	1	1
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	7 681	7 317	7 430

* RUs on the national market

** Please note that public service operators may also run trains that do not fall under their public service contracts.

Regulatory Authority: Public Utilities Commission (further in text - PUC)

Country: Latvia

1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? In accordance with Railway law any railway undertaking after obtaining the licence (in any Member state) is entitled to provide carriage services. Any railway undertaking is also obligated to meet the requirements referred to infrastructures access and safety standards.
	1.2 Is there a competitive tendering of public service contracts in your country? In accordance with **Law On Public Transport Services,** if the ordering party has established a capital company for the provision of public transport services, in which all capital shares or voting stock is owned by the relevant ordering party, ordering party may grant the right to provide public transport services to this capital company without taking into account the order procedures like public procurement or procedure of concession allocation. As there is JSC „Pasažieru vilciens", which has signed contract for passenger carriage by rail and in which voting stock is owned by state, there is no competitive tendering of public service contracts in Latvia.
	1.3 Please explain the organisation of ticketing in your country. In accordance with Law On Public Transport Services Road Transport Administration has created a single system for the trade, booking and accounting of public transport tickets. The purpose of mentioned system is to provide the possibility to buy and reserve tickets for any existing route in any ticket window.
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? In accordance with contract set between government and company "Pasažieru vilciens" passenger carriages in Latvia are provided by company "Pasažieru vilciens". As rolling stock is company's "Pasažieru vilciens" assets, there is no procurement with respect to access to rolling stock.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? PUC is not involved addressing rules on social standards and the impact on employment conditions.
	1.6 How are Public Service Obligations defined? In accordance with Railway law PUC is responsible for adapting requirements of Regulation Nr.1371/2007. AS regulation is

	directly adoptable, the requirements of regulation are not implemented in national legal framework.			
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? PUC is responsible for adapting requirements of Regulation Nr.1371/2007 and issuing licences for passenger carriages.				
3. Please insert some statistics with respect to:				
		2009	**2010**	**2011**
	3.1 the number of operators	3	3	3
	3.2 details of ownership for those operators (private sector vs public sector)	Companies “Pasažieru vilciens” and “LDZ cargo “ - 100% public sector Company “Gulbenes – Alūksnes bānītis” - public sector 4.55%, private 95,45%		
	3.3 the number of open access operators	3	3	3
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	759 milj. passenger kms	748 milj. passenger kms	741 milj. passenger kms

Regulatory Authority: Nederlandse Mededingingsautoriteit (NMa/ Netherlands Competition Authority)

Country: Netherlands

<table>
<tr><td colspan="5">1. General Framework of domestic passenger market and organisation of public service operations</td></tr>
<tr><td></td><td colspan="4">1.1. Does your Member State have an open access approach for domestic passenger services? The Netherlands have no open access on domestic passenger passenger services.</td></tr>
<tr><td></td><td colspan="4">1.2 Is there a competitive tendering of public service contracts in your country? The Netherlands have a dual system. The regional lines are under competitive tendering. They account for approximately ... of the network. The rest of the network, the main central network is privately granted to the NS, the incumbent passenger operator.</td></tr>
<tr><td></td><td colspan="4">1.4 What is the procurement approach in your Member State with respect to access to rolling stock? Rolling stock is not regulated in anyway except for safety-issues.</td></tr>
<tr><td></td><td colspan="4">1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another?

The regulatory body is not involved.</td></tr>
<tr><td></td><td colspan="4">1.6 How are Public Service Obligations defined?</td></tr>
<tr><td colspan="5">2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? The RB has no role in the granting of concessions or the conditions of the concession. The regulatory body monitors whether the Infrastructure Manager acts non-discriminatory towards all passenger operators. Further the Regulatory Body oversees access to, and the terms and conditions of rail related services necessary for passenger operators; for example stations and their facilities, travel information, maintenance services.</td></tr>
<tr><td colspan="5">3. Please insert some statistics with respect to:</td></tr>
<tr><td colspan="2"></td><td>2009</td><td>2010</td><td>2011</td></tr>
<tr><td></td><td>3.1 the number of operators</td><td>5</td><td>4 (Merger holdings of Veolia, Connexxion)</td><td>4</td></tr>
<tr><td></td><td>3.2 details of ownership for those operators (private sector</td><td>NS incumbent 100% owned</td><td>NS incumbent 100% owned</td><td>NS incumbent 100% owned</td></tr>
</table>

	vs public sector)	by state.	by state.	by state.
	3.3 the number of open access operators	0	0	0
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	Total 92,0 Incumbent 79,0 Non-Incumbent 13,0	Total 92,0 Incumbent 78,0 Non-Incumbent 14,0	-

Regulatory Authority: The Norwegian Railway Authority

Country: Norway

1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? Norway does not have open access on domestic passenger services.
	1.2 Is there a competitive tendering of public service contracts in your country? The Gjøvikbanen service between Oslo and Gjøvik is the only service that has been tendered in Norway. Gjøvikbanen AS, a subsidiary company of NSB AS (the incumbent), won the tender and is operating the service.
	1.3 Please explain the organisation of ticketing in your country. NSB AS (the incumbent) manages its own ticketing system and facilities. It cooperates with regional transport operators, such as Ruter AS in the Oslo-Akershus area. Gjøvikbanen AS uses the same ticketing system and facilities as NSB AS. Flytoget AS operates a ticketing system and facilities separate to the facilities managed by NSB AS. These ticketing systems are operated separately. The Ministry of Transport has the authority to instruct NSB AS to put its sales- and distribution system to the disposal of other operators of passenger transport. Furthermore the Ministry of Transport has the authority to instruct operators of passenger transport to use such sales- and distribution systems.
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? The Ministry of Transport has the authority to instruct NSB AS to put rolling stock to the disposal of other operators of passenger transport. When tendering the Gjøvikbanen service the Ministry of Transport concluded a contract with NSB AS on letting rolling stock out on hire, with the object of putting the rolling stock to the disposal of the bidding winner. Both NSB AS and Flytoget AS have the ownership of their rolling stock.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another?

	The RB has not been involved in addressing such rules.			
	1.6 How are Public Service Obligations defined? *Regulation (EC) No 1370/2007 on public transport services by rail and by road* is implemented in Norwegian law by *Forskrift om offentlig persontransport (FOR 2010-12-17 nr 1673)*. The definition of Public Service Obligations in Article 2 (e) of the Regulation applies.			
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? The Ministry of transport is responsible for the Public Service Contracts and the monitoring of such contracts as far as railway is concerned. The Regulatory Body does not have a role in this respect. The RB's function is to monitor the competition and process complaints regarding the behaviour of the Infrastructure Manager and Railway Undertakings. The RB monitors the access to, and the terms and conditions of rail related services necessary for passenger operators.				
3. Please insert some statistics with respect to:				
		2009	**2010**	**2011**
	3.1 the number of operators	3 (Flytoget AS, NSB AS, Gjøvikbanen AS)	3 (Flytoget AS, NSB AS, Gjøvikbanen AS)	3 (Flytoget AS, NSB AS, Gjøvikbanen AS)
	3.2 details of ownership for those operators (private sector vs public sector)	- Flytoget AS is a private company fully owned by the Ministry of Trade and Industry. - NSB AS is a private company fully owned by the Ministry of Transport. - Gjøvikbanen AS is a private company, and a subsidiary company of NSB AS.		
	3.3 the number of open access operators	-	-	-
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	Total passenger km in 2009: 2.996 bn.	Total passenger km in 2010: 3.154 bn.	Total passenger km in 2011: 3.036 bn.

Regulatory Authority: Railway Regulatory Authority (ÚRŽD)

Country: Slovak Republic

1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? No open access.
	1.2 Is there a competitive tendering of public service contracts in your country? Only direct awards of public service contracts.
	1.3 Please explain the organisation of ticketing in your country. The ticket sales network of incumbent covers the whole area of Slovakia. The sale of tickets of new entrant is provided in sales points of new entrant and also by incumbent.
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? The public procurement with respect to obtain new rolling stock is announced by incumbent in compliance with relevant legislation on public procurement in Slovakia.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? No.
	1.6 How are Public Service Obligations defined? The Public Service Obligations are defined by competent authority – Ministry of Transport, Construction and Regional Development of the Slovak Republic. In the public service contract with incumbent there is an option to exclude 35% of performance from the scope of contract in the period of 10 years.
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? The role of our regulatory body in the field of public service contracts - Railway Regulatory Authority regulates the fares in domestic passenger transport for passenger services under public service contract. The regulated fare includes basic fare and special rates for selected categories of passengers (disabled persons, schoolchildren, students and retirees over 70).	
3. Please insert some statistics with respect to:	

		2009	2010	2011	2012
	3.1 the number of operators	1	1	1	2
	3.2 details of ownership for those operators (private sector vs public sector)	Incumbent – public sector New entrant (2012) – private sector, RegioJet, regional operator, 1 line – 100 km (Bratislava – Komárno)			
	3.3 the number of open access operators	No open access operator.			
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	32,0 million passenger train km	31,9 million passenger train km	31,1 million passenger train km	

Regulatory Authority: APEK-Post and Electronic Communications Agency of the Republic of Slovenia

Country: Slovenia

1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? In the Republic of Slovenia there is still no open access for domestic passenger service.
	1.2 Is there a competitive tendering of public service contracts in your country? The PSO provider for domestic rail passenger service was not chosen by competitive tendering.
	1.3 Please explain the organisation of ticketing in your country. Passengers can buy tickets in railway stations or directly on train.
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? The procurement with respect to access to rolling stock is not regulated, as the only service provider (incumbent) owns his rolling stock.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? No, we are not involved in addressing those issues.
	1.6 How are Public Service Obligations defined? PSO for providing domestic and cross border regional passenger transport is a direct contract between state and operator, which is based on Slovenian Railway Company Act and Decree on the mode of providing PSO in inland railway passenger transport.
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? As we still don't have competition in providing domestic rail passenger service, the RB has no role with respect to the above mentioned areas.	
3. Please insert some statistics with respect to:	

		2009	2010	2011
	3.1 the number of operators	1	1	1
	3.2 details of ownership for	state owned	state owned	state owned

	those operators (private sector vs public sector)			
	3.3 the number of open access operators	-	-	-
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	840.170.631 pkm	813.354.079 pkm	773.229.708 pkm

Regulatory Authority: Comité de Regulación Ferroviaria (CRF)

Country: Spain

1. General Framework of domestic passenger market and organisation of public service operations	
	Does your Member State have an open access approach for domestic passenger services? Please explain. In Spain, the domestic passenger market has not been opened to competition, but recently the Parliament has approved a Law to set the date to open the market: next July 31th, 2013.
	1.2 Is there a competitive tendering of public service contracts in your country? Please explain. So far, the Regulation 1370/2007 is being applied, however there are not tenders to designate the operator in a service public contract.
	1.3 Please explain the organisation of ticketing in your country. In metropolitan areas, there is an authority in which the transport companies work. The authority decides the prices of tickets face to the clients o users, (especially in bonus Card) while the prices of the transport services is set up in based to MoU with the rail company. For the rest of services, medium and long distance, is the incumbent who sets the prices of the tickets, using different selling channels.
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? So far, no tendering has taken place in railway field.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? No, the current functions of the CRF don't include the social rules and the impact on employment conditions in case of change of operator**.**
	1.6 How are Public Service Obligations defined? The definition of the Public Service Obligations is the one of the Regulation 1370/2007. The Government, following a proposal of Ministry of Fomento, and, on the other hand, regional and local authorities, in using their own competencies, can declare a passenger transport as public service, and, in that case, can set the public service obligations. The usual way to award is through a tender, but in case of the railway services, so far, is a direct designation.
Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? CRF resolves complaints and disputes through executive decisions, decides to open ex officio dossiers in case of discrimination, can report the tender procedures for the award of public services contracts (when that happens), and also can interpret the terms of the award of public services.	

3. Please insert some statistics with respect to:				
		2009	**2010**	**2011**
	3.1 the number of operators	1	1	1
	3.2 details of ownership for those operators (private sector vs public sector)	Stated owned	Stated owned	Stated owned
	3.3 the number of open access operators	--	--	--
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms)	21.699,71 million passenger kms	20.977,90 million passenger kms	21.398,30 million passenger kms

Regulatory Authority: Transportstyrelsen (The Swedish Transport Agency)

Country: Sweden

1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? Yes, any railway undertaking established within EEA or Switzerland have access to the Swedish rail network. There is an exception for local passengers on the line between Stockholm Central and Arlanda Airport, where the Arlanda Express has a monopoly, and may decide on access rights for others. In practice several other RUs have been permitted to perform both local, regional and interregional passenger transports on the Arlanda Line. Moreover any "Authorised Applicant" (an organiser of rail traffic) within EEA or Switzerland may apply for, and can be allocated train paths.
	1.2 Is there a competitive tendering of public service contracts in your country? Yes, since 1989 for local and regional traffic and since 1992 for interregional traffic. All public service contracts are put out for tendering.
	1.3 **Please explain the organisation of ticketing in your country**. It is possible to buy through tickets when there are more than one operator performing the transport. It is also possible to buy through tickets including bus, tram, metro and, to some extent, boat. It is also possible to buy a ticket from one RU for a journey with another RU. Detailed information, also in English, can be found on the website www.resplus.se
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? The state has rolling stock that is used by the contracted operators in interregional public service transports for which the state is the competent authority. Surplus vehicles can be leased or hired out to operators performing commercial traffic. The local competent authorities possess rolling stock for the traffic performed by their contracted operators.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? No.
	1.6 How are Public Service Obligations defined? The general definition is the one in the regulation (EC) no 1370/2007. The competent authorities respectively supplements with requirements for the different needs.
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? The RB supervises that the infrastructure capacity is allocated and charged in a	

non-discriminatory way according to the law and directive 2001/14/EG. The RB can decide on the conditions in agreements referred to in Article 10 (5) in Directive 91/440/EEG. Moreover the RB shall watch over the competition within the rail market and report to the authority for competition if the RB discovers disturbances.
3. Please insert some statistics with respect to:

		2009	2010	2011
	3.1 the number of operators	10	11	12
	3.2 details of ownership for those operators (private sector vs public sector)			*
	3.3 the number of open access operators	2	3	4
	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	11 102 000 000 pkm	10 979 000 000 pkm	n/a

* Passenger transport

The table shows the details of ownership for railways undertakings for the accounting year 2011.

Arriva Tåg AB	Is owned at 100 % by Arriva Danmark A/S which in turn is owned by Deutsche Bahn AG.
A-Train AB	Is owned at 100 % by MEIF Stockholm AB, which in turn is owned by MEIF Luxembourg Holdings SA, Luxemburg.
Botniatåg AB	Is owned by 60% by Arriva Östgötapendeln AB the former DB Regio Sverige AB (which is a part of the i Deutsche Bahn-group) and 40% by SJ AB.
DSBFirst Sverige AB	Is owned at 100 % by DSB First Holding Aps, Denmark.
DSB Sverige AB	The company is a part of the DSB-group (Danske Statbaner).
Inlandståget AB	Is owned at 100 % by Inlandsbanan AB, which in turn is owned by the municipalities along the Inlandsbanan line.
SJ AB	Is owned by the Swedish state.
Skandinaviska Jernbanor AB	Private limited liability company .
Stockholmståg KB	Is owned by SJ AB (68 %) and by SJ Invest AB (32%).

Svenska Tågkompaniet AB	Is owned by Norges Statsbaner (NSB A/S), Norway.
Tågåkeriet i Bergslagen AB	Private limited liability company.
Veolia Transport Sverige AB	Is owned by 100 % by Veolia Transport Northern Europe AB which in turn is owned by 100 % by Veolia Transport S:A, France.

Independent Regulators´Group - Rail

Regulatory Authority: Office of Rail Regulation

Country: United Kingdom

1. General Framework of domestic passenger market and organisation of public service operations	
	1.1. Does your Member State have an open access approach for domestic passenger services? The passenger rail market has been open to competition since 1994. The majority of passenger routes are operated under Public Service Contracts (franchises), which are awarded through open competitive tendering to train operators (TOCs). There are also a small number of open access operators. The Government (Department for Transport – DfT) is responsible for rail policy and in addition to its strategic role it manages the distribution of Government subsidies to the rail industry through the specification and allocation of passenger rail franchises (ie public service contracts for the provision of rail passenger services) and the making of revenue grants to the mainline infrastructure manager. Franchises are let and managed by the DfT, with some regional decisions devolved to local authorities in London, Merseyside, Scotland and Wales to operate specific passenger services. Passenger services are provided primarily by theTOCs which compete for passenger rail franchises; TOCs are typically owned by major privately owned transport groups such as Arriva, National Express Group, Stagecoach and First Group. There are also a small number of open access operators which provide passenger train services on the national rail network outside the franchising system; Open access passenger train operators operate services purely on a commercial basis, i.e. not under either a franchise or a concession agreement. These are companies who identify an opportunity to run a service which is not currently being provided.
	1.2 Is there a competitive tendering of public service contracts in your country? Yes- Franchises (ie public service contracts for rail passenger services) are awarded by the DfT or devolved authorities (eg. Transport for Scotland) following open competition in order to ensure value for money for the taxpayer and to provide assurance for the Government that the franchises are delivering efficiently. Franchises typically run for seven years with an option for the DfT to extend them for another two to three years depending on the franchisee meeting performance targets. There are some longer franchises which have been awarded subject to meeting particular performance standards.
	1.3 Please explain the organisation of ticketing in your country. There is mandatory through-ticketing and inter-availability of tickets. Law in the UK requires all passenger train operators to join and comply with industry arrangements approved by DfT which contain obligations to sell through tickets at stations and to have at least one impartial point of sale at stations at which passengers can buy tickets from any other operator including tickets which

	will allow them to make a through journey. The Association of Train Operating Companies (ATOC) manages the scheme that deal with these and other matters. These arrangements include the Ticketing and Settlement Agreement and the National Rail Enquiry Scheme. This condition imposed on all passenger train operators (franchised and open acces operattors) but does not apply to those only offering charter services (ie special trains – sports events).
	1.4 What is the procurement approach in your Member State with respect to access to rolling stock? Rolling stock in the UK is generally procured to operators via rolling stock leasing companies (ROSCOs). Almost all passenger rolling stock is leased by one of three incumbent ROSCOs, each owning about a third of all passenger stock: ▪ Angel Trains (Consortium) ▪ Eversholt Rail (3i Infrastructure, Morgan Stanley Infrastructure, STAR Capital Partners) ▪ Porterbrook (Antin Infrastructure, Lloyds TSB, Deutsche Bank, OP Trust) ROSCOs either lease stock to train operating companies or to rolling stock manufacturers. Rolling stock leases are typically for the length of the franchise with an option to extend, although this can vary, and there are also shorter-term leases. Leases set out the key rights and responsibilities of the operator and the ROSCO such as the delivery and return of the rolling stock (including early termination or 'break' clauses), the term of the lease, rent and other payments, inspection of the trains, insurance, maintenance, and events of default. ROSCOs have Codes of Practice setting out the key criteria on which they do business, such as good faith and non-discrimination. Rolling stock manufacturers (such as Alstom, Bombardier and Siemens) build new rolling stock which is purchased by the ROSCOs, operators or the Government. New rolling stock can be introduced onto the rail system in a number of ways; it can be driven by the Government (DfT), by for instance specifying it in the franchise ITT, introduced by a TOC through a franchise bid, or can be purchased by rolling stock lessors speculatively, without any commitments to lease. Speculative purchase of rolling stock is, however, unusual.
	1.5 Are you involved in addressing rules on social standards and the impact on employment conditions during the transfer of staff from one operator to another? No.
	1.6 How are Public Service Obligations defined? Public service obligation means a requirement defined or determined by a

	competent authority in order to ensure public passenger transport services in the general interest that an operator, if it were considering its own commercial interests, would not assume or would not assume to the same extent or under the same conditions without reward.			
2. Which is the concrete role of the Regulatory Body with respect to the above mentioned areas? ORR has no role in the award of public service contracts. ORR has a role in pre-approving access contracts to the rail network. Operators must obtain an access agreement with the infrastructure manager to use the infrastructure. This agreement has to be approved by ORR before entering into force. ORR is the licencing authority. Operators must obtain a licence from the ORR to operate trains . ORR is the appeal body for any complaints on access and charging issues. ORR is the competiton authority. Parties can complain to ORR, which can undertake or refer the industry for a competition investigation.				
3. Please insert some statistics with respect to:				
		2009	**2010**	**2011**
	3.1 the number of operators	33	32	34
	- active franchised passenger operators	19	19	19
	- active non franchise passenger operators (open access)	6	6	5
	- active international operators	2	2	2
	- active freight operators	6	5	8
	3.2 details of ownership for those operators (private sector vs public sector)[1]	Private sector: 33	Private sector: 32	Private sector: 34
	3.3 the number of open access operators	6	6	5

[1] All passenger rail operators belong to the private sector. The Government may be in charge of a passenger service from time to time and take on the role of operator of last resort for a short period in the event of franchise failing whilst still under contract to the Government, or in the event that the contract is terminated for any reason. The operator of last resort is on standby to assume the reins in running the operation until such time as a further franchise can be let.

	3.4 the development of the domestic passenger market during the past years (e.g. total passenger kms) % market share train km.	Passengers (million): 1271.5 Passenger-km (billion): 51.1	Passengers (million): 1366.4 Passenger-km (billion): 54.1	Passengers (million): 1389.2 Passenger-km (billion): 54.9