

Independent Regulators' Group – Rail

IRG–Rail

Working Group Market Monitoring

Position Paper

**on the definitions used in the RMMS questionnaire of the
European Commission**

6 May 2014

I. Introduction

1. This position paper reflects the view of IRG-Rail on the definitions used in the Questionnaire for the Rail Market Monitoring Scheme (RMMS) of the European Commission of 3 June 2013. The recommendations of IRG-Rail are based on its own experience with market monitoring.
2. The Commission proposed on 3 June 2013 a new RMMS questionnaire which, while being a new tool for the monitoring, requires Member States to provide data on some indicators that do not seem to be clearly defined and are ambiguous. IRG-Rail believes that the lack of definitions for these indicators is likely to make it difficult to compare data between countries and result in a distorted image of railway markets in the European Union.
3. According to article 15.2 of Directive 2012/34/EU (the Directive) referring to the scope of market monitoring, the Commission is required to closely involve representatives of the regulatory bodies so that they are better able to monitor the development of the railway sector and the evolution of the market in order to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission.
4. In addition, Article 15.6 of the Directive stresses that the Commission may adopt measures to ensure consistency in the reporting obligations of Member States. In this respect, the Commission has announced its intentions to introduce a new implementing act concerning the rail market monitoring scheme.
5. IRG-Rail is keen to contribute to the development of this implementing act and new questionnaire. We published a general position paper on the proposals put forward for this implementing act and on the basic principles of market monitoring last October. This paper focuses on the definitions of indicators¹.

¹ <http://www.irg-rail.eu/public-documents/2013/>

II. Terms used in the questionnaire

6. IRG-Rail would like to express its views on different aspects relating to the terms used in the questionnaire sent to Member States to collect data on market monitoring. Further details on the definitions that IRG-Rail uses for its data collection can be found in chapter VI of the 'IRG-Rail Guidelines on Market Monitoring'².

Local/regional and long distance³

7. With regard to traffic data, there is a need to define what is meant by UIC type A and B traffic. The Commission wants to apply market segments as defined by UIC type A (regional, suburban) and type B (long distance). These terms are not widely used. Furthermore, under UIC Type A traffic in passenger-kilometres, the questionnaire makes a distinction between "suburban" and "regional" traffic. This distinction is not clear because there is a lack of proper definition of either type of traffic. IRG-Rail therefore proposes not to differentiate between these terms and recommend reporting only on the overall UIC Type A traffic or, if necessary, ask countries whether they specify suburban traffic and collect data from them on it - just as additional information for each specific country. Definitions of local, regional and long-distance traffic should be also considered when measuring punctuality (please see point 8).
8. Moreover IRG-Rail understands that definitions of UIC Type A and Type B traffic are available in UIC leaflets that are subject to a fee. IRG-Rail considers that the EC should provide Member States with clear definitions of these types of traffic to ensure clear reporting.

Stations⁴

9. When referring to data on the number of stations, it should be specified whether the number of stations should include stops or not. IRG-Rail believes that both numbers could be collected.

Freight Terminals⁵

10. The Commission proposes to collect data on the charges and ownership of freight terminals. IRG-Rail would also recommend providing a definition for "freight terminal" – as some countries may report on all places where loading and unloading of goods is possible, while others may report only specially-built intermodal unloading and loading facilities. IRG-Rail would advise that the questionnaire should consider only infrastructure specially built and equipped for the purpose of intermodal traffic.

² Accessible via <http://www.irg-rail.eu/public-documents/2013/>

³ Non paper paragraphs: 4.1 *Infrastructure charging*, 4.5 *Quality of Rail Services*, 4.6 *Rail transport services covered by public service obligations*, 4.7 *Degree of market opening* and especially 4.11 *Horizontal issues*

⁴ Non paper paragraph: 5.1.2.a *List and statistics of the main stations*

⁵ Non paper paragraph: 5.1.2.b *List of the intermodal freight terminals*

11. In Annex II of the Directive the term "freight terminal" is understood as the access to all loading and unloading points, not only to those of intermodal transport. However, based on the experience of regulatory bodies, the collection of data on all freight terminals, as understood under Annex II of the Directive, is not possible due to the fact that loading and unloading activities can be performed at every single station or siding which makes it impossible to compute. IRG would recommend focusing on intermodal terminals as the collected data will be more comparable and robust, and will reflect the development of intermodal transport.

Train formation facilities

12. We also believe that it is necessary to clarify what is meant by "train formation facilities"⁶. Some countries may report all facilities where train formation is possible, others may only report gravity hills (hump yards). Although Annex II of the Directive groups marshalling yards and train formation facilities together, IRG-Rail would like to point out that train formation can take place at every station, side track, siding etc. Therefore we recommend limiting the reporting request only to a subgroup of train formation facilities, namely those with gravity hills.

Storage siding⁷

13. At the moment the Commission does not intend to collect data on storage sidings. However if data collection on storage sidings is inserted in the implementing act, then the term storage siding also needs to be defined. Due to the lack of definition, some countries may report the number of storage sidings, while others may report the number of tracks used for the storage of wagons or trains. Any siding could be used for storage, although this may not be its primary purpose, but it would be excessively onerous (and probably impossible, as well as adding no value) to report on the total number. IRG-Rail recommends therefore presenting the number of locations (sites) available to accommodate rolling stock (not the number of tracks).

Facilities and services⁸

14. In the questionnaire the terms "technical facilities / other facilities" and "additional services / ancillary services" are used. They seem to be very general. IRG-Rail stresses that general terms are not appropriate for data collection and recommends that data referring to such undefined terms should not be requested. The recent non-paper of the Commission deleted 'other facilities' and 'additional services' from list of reporting obligations. IRG-Rail strongly supports this deletion.

Infrastructure maintenance, renewals and enhancements⁹

15. The Commission asks for data on the investments in infrastructure and a breakdown in 'maintenance', 'renewals' and 'enhancements'. Terms such as infrastructure maintenance, renewals and enhancements should be clearly defined.

⁶ Non paper paragraph: 5.1.2.c List of train formation facilities

⁷ Non paper paragraph: OLD 5.1.2.d storage sidings

⁸ Non paper paragraph: OLD 5.1.2.d, f, g, and h

⁹ Non paper paragraphs: 4.3 Investments in Infrastructure

16. In some countries maintenance covers small-scale operations, the purpose of which is to provide a certain level of quality, reliability and safety of infrastructure. In other countries maintenance means only the work on the infrastructure which is treated as an expenditure that is not added to the balance sheet. As there are many interpretations, IRG-Rail proposes that one of the criteria for defining maintenance is that it should cover such works that do not influence assets added to the balance sheet. Maintenance expenditure should not be confused with the infrastructure manager's total operating expenditure¹⁰ as the latter includes for example expenditure for capacity allocation and traffic control. This needs to be addressed in an indicator for maintenance, especially to avoid reporting of total operating expenditure where maintenance expenditure is meant.
17. Renewals might be interpreted as restoring railway infrastructure to the parameters it had when it was built. For other countries it could mean only work on the infrastructure, which is treated as expenditure added to the balance sheet, except for extension and new construction.
18. As far as enhancements are concerned, they may be understood as operations making railway infrastructure better than it was when it was new. For other countries it may only cover extension and new construction.
19. Renewals and enhancements, would be works for which expenditure would appear in the balance sheet. Generally, renewals and enhancements require external financing.

Investment¹¹

20. As far as "investments made" are concerned, IRG-Rail stresses the importance of including the publicly funded investments as well as the investments financed from the railway infrastructure company's own resources. Both need to be taken into account and they need to be described in the questionnaire, if appropriate.

Active licence¹²

21. The Commission is seeking a breakdown of data on active and passive licences. With regard to "active licence" IRG-Rail understands that this concept covers all licences that have not been suspended or revoked. However it should be stressed that the number of active licences should not correspond to the number of active railway undertakings, the latter figure being more important. Active railway undertakings are defined as public or private undertakings which provide services for the transport of goods and/or passengers by rail. This does not include infrastructure maintenance operators and railway undertakings which have active licences but do not run trains. IRG-Rail would also recommend that the Commission should consider that some railway undertakings perform transport activities only occasionally. Moreover, IRG-Rail would like to underline that information on active licences has to be and is reported to ERA by each member state.

¹⁰ OPEX

¹¹ Non paper paragraphs: 4.3 *Investments in Infrastructure*

¹² Non paper paragraphs: 4.9 *Licensing*

Punctuality¹³

22. The Commission is proposing to collect data on the quality on rail services, and in particular on the punctuality of rail services. The criteria for measuring punctuality should be clearly defined. For some countries terms such as “up to 5 minutes” may mean up to 5 minutes and 0, 29 or 59 seconds while for others it means up to 4 minutes and 59 seconds. Also, the method of calculating the punctuality should be well defined. Data between countries may not be comparable. For example, in some countries, delays are gathered at every station, in others this is only done at specific stations or at the end of the movement of a train. Delays should be specified in minutes, since there is a fundamental difference between a delay of 10 and 120 minutes. On the other hand, train cancellations and skipped stations should be taken into consideration as such indicators reflect the quality of service.

High Speed¹⁴

23. The Commission is planning to collect data on high speed services. The term “high speed” traffic must be clearly defined in the questionnaire. There is a need for the differentiation of two aspects: high-speed infrastructure (length of lines, investments) and high-speed traffic. High speed trains such as the ICE/TGV trains operating on conventional lines should be reported as conventional traffic. On the other hand, trains operating on high speed lines that are not capable of operating at the maximum permitted speed should not be reported as high speed traffic.

National/ Domestic¹⁵

24. In some parts of the questionnaire the term “national” is used, in others the term “domestic”. IRG-Rail stresses that the questionnaire should be consistent in the use of terminology.

Congestion

25. Initially the Commission planned to request data on congested service facilities. In that case clarification is needed in relation to congestion of service facilities, as no criteria appear to have been developed concerning measurement of congestion of such facilities. IRG-Rail is of the opinion that infrastructure managers are not likely to report on the congestion of service facilities, if this does not become a legal requirement with judicial consequences (e.g. fines), Reporting on congestion of these facilities is likely to be very complex, time consuming and costly. Therefore, recognising the risk of ending up with data that is not comparable, IRG-Rail recommends that no attempt should be made to collect data on congestion of facilities. Moreover, there is no legal basis for declaring rail related services congested. The alternative would be only to identify congestion of railway lines within stations.

¹³ Non paper paragraphs: 4.5 *Quality of rail services*

¹⁴ Non paper paragraphs: 4.11 *Horizontal issues*

¹⁵ Non paper paragraphs: 4.5 *Quality of rail services* and 5.1.a *Requests for infrastructure capacity*.

Path¹⁶

26. Commission is proposing to measure path requests and path allocations. IRG-Rail would like also to stress that the term „path“ needs to be described in a way that ensures a common understanding of this concept in all countries of the European Union. Two interpretations are possible: a path can be a scheduled path representing up to 365 train rides during one year (when used every day) or an occasional path that represents one train ride.

Ownership and management¹⁷

27. The Commission is planning to collect data on the structure of ownership and management of service facilities. As far as the terms “ownership“ and ”management“ are concerned, answers to the questionnaire should make it clear which “ownership” or “management” approach is referred to (e.g. public property or private). IRG-Rail believes that choices should be defined to contribute to a better comparability.

Largest¹⁸

28. The Commission intends to collect information on the largest stations. IRG-Rail recommends clarifying the meaning of the word „largest“ in the context of service facilities. When referring to “the largest” stations, this should be the station with the highest passengers flow. With regard to other service facilities, a measure could be the number of rail tracks or revenues. In addition, the proposed categorisation of stations also needs clarification; it should be clarified what groups the various categories of stations cover, e.g. all stations with more than 10 000 passengers a day have also more than 1 000 passengers a day. IRG-Rail considers that it is not useful to ask about largest stations except in the category of those that are the largest. The concept of highest capacity of stations is also unclear and should therefore not be used.

Representative total market value for business data¹⁹

29. The Commission is seeking to measure the ratio of passenger revenues in public service obligations. Calculation methods should be indicated. When calculating the average by means of revenues, the incumbents might show the highest value, due to their high market share. If each company is treated in the same way while calculating the average, the result may also be distorted. It could be useful to use several methods and separate the calculation for incumbents and non-incumbents.

¹⁶ Non paper paragraphs: 4.2 *Capacity allocation*

¹⁷ Non paper paragraphs: 5.2 *Service facilities*

¹⁸ Non paper paragraphs: 5.2 *Service facilities*

¹⁹ Non paper paragraphs: 4.4 *Development as regards prices*