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A network diagram background consisting of a complex web of interconnected nodes and lines. The nodes are represented by small circles in various shades of blue and grey, and the lines are thin, light blue. The network is dense and spans the entire width and height of the slide.

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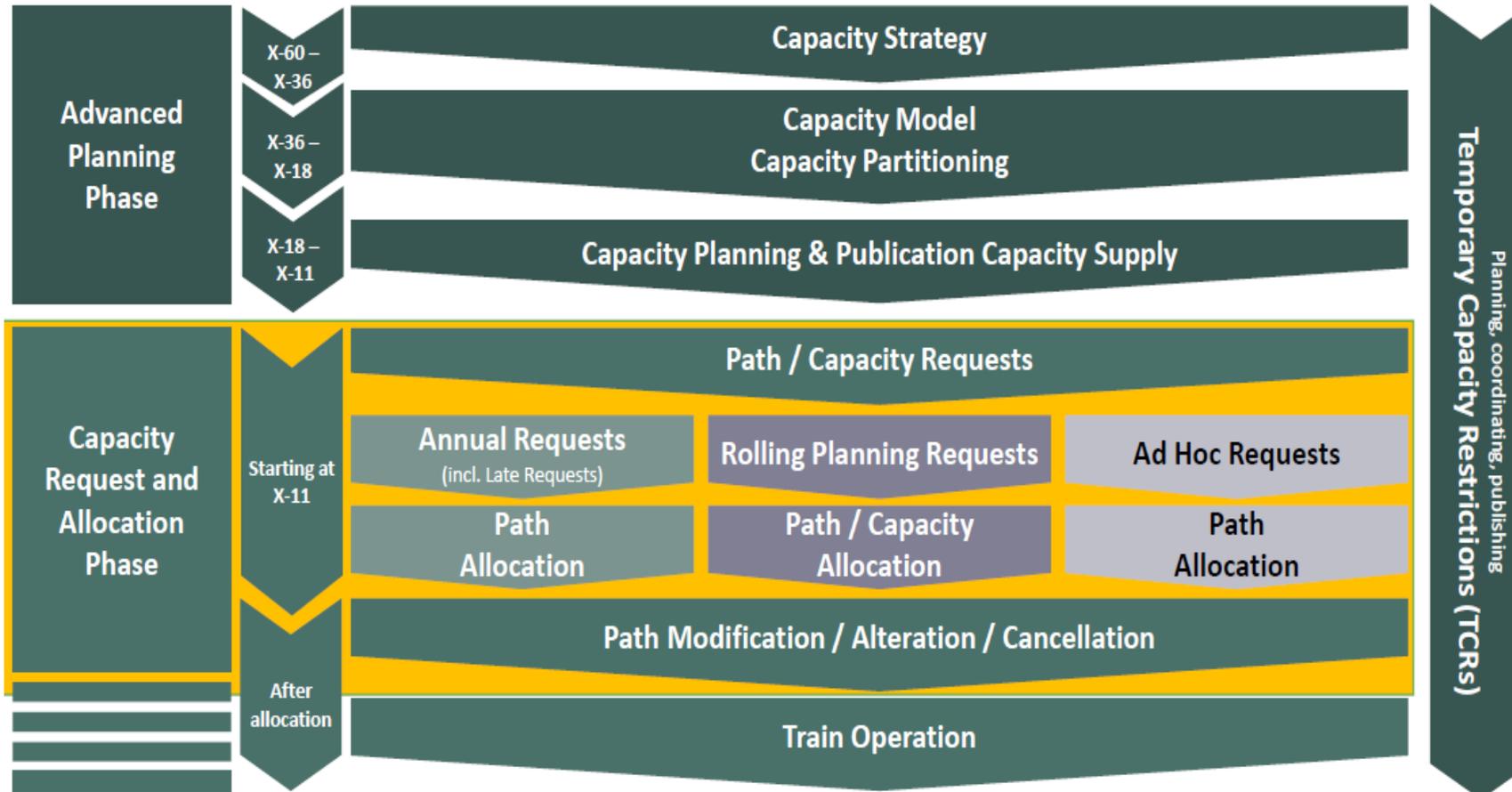
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TTR from the perspective of the regulators IRG-Rail Forum

9 June 2021

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IRG-Rail WG Access

TTR: the new allocation process



IRG-Rail and TTR

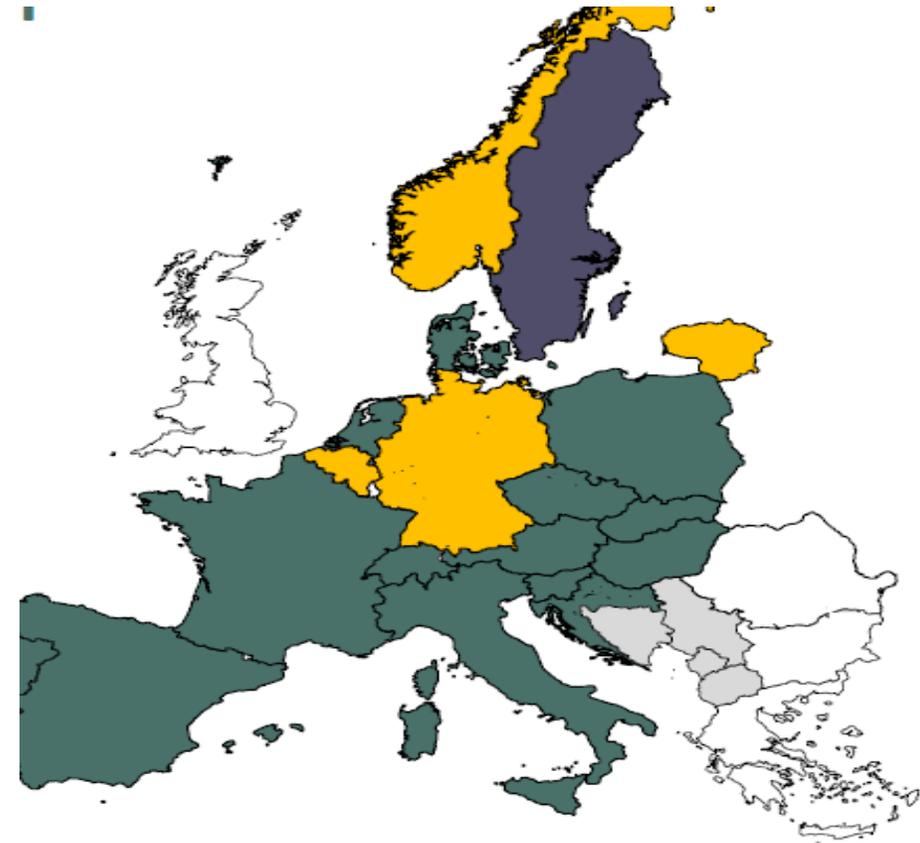
- IRG-Rail believes that the outcome of the process to introduce TTR will be of key importance to the future of access to the European railway market.
- IRG-Rail has engaged with TTR since 2017 work programme, through e.g. observation at pilot boards, analysis of TTR documentation, engagement with stakeholders
→ **yearly public reports on the state of development of TTR.**
- IRG-Rail
 - supports innovation in the railway sector and strengthening of the rail transport and finds that TTR is an innovative project to that effect.
 - welcomes the TTR process objectives.
 - appreciates the efforts of IMs and applicants to improve capacity allocation through TTR.
- However, IRG-Rail also points to
 - the need for thorough documentation and testing,
 - some key market and regulatory concerns which have been insufficiently addressed in TTR:
 - Impact of TTR on market entry and exit, especially in open-access passenger traffic
 - Impact of TTR on competition and innovation
 - Transparency, conflict resolution and regulatory monitoring in the capacity model and capacity planning stages
 - The integration of TTR into the whole transport chain (i.e. service facilities)

TTR Legal group created by the Commission

The legal framework should enable the deployment of TTR. In early 2021 the European Commission set up a working group with member state representatives (Ministries and Regulators) to discuss TTR developments, including a gap analysis prepared by the TTR Legal Task Force (LTF) which points to areas of the current legal framework which needs to be amended to enable TTR. The Commission has indicated that it would be preferable and perhaps necessary to amend directive 2012/34/EU to reflect TTR. The ongoing revision of the rail freight regulation and the opportunity to use delegated and implementing acts will not be sufficient to enable an adequate implementation of TTR. Legislative proposals can be expected in the first half of 2022.

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IRG-Rail Report on the state of development of the TTR project

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- Report focus : potential regulatory concerns in the TTR allocation process (report available at: <https://www.irg-rail.eu/download/5/858/IRG-Rail20213ReportontheStateofDevelopmentofTTR.pdf>)
 - The aim is to provide the regulatory bodies' perspective on unresolved key regulatory questions and challenges related to TTR, especially the regulatory aspects of the proposed allocation process.
 - Based on analysis of TTR process description from an RB perspective, and on engagement with RU associations (FTE, ERFA, Allrail).

Capacity strategy

- Less controversial than subsequent phases because of limited interaction between IMs and applicants. However, certain factors shaping the market are defined early on in long-term planning
 - How can transparency be safeguarded in the collection of information and methods for forecasting demand and determining the principles for capacity allocation?
 - To what extent should different stakeholders be allowed to influence the available capacity and the planning principles?

Capacity model and capacity supply

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- Capacity Needs Announcement
 - Very important as key channel for applicants' demand for capacity.
 - If CNAs are not binding for applicants, how can IMs deal with the risk of applicants *overstating* demand? Are the proposed "plausibility checks" sufficient?
 - If CNAs are binding for applicants, how can IMs deal with traffic with uncertain demand, new traffic, and new entrants?
- Transparency in planning methodology and design parameters
 - Need to safeguard applicant's influence and introduce formal requirements on IMs?
- Consultation, coordination and dispute resolution
 - Procedures regulated in art. 45-47 of directive 2012/34/EU will partly be carried out in preplanning --> need for similar detailed safeguards concerning consultation and coordination in each stage of preplanning?
 - How should dispute resolution processes and priority criteria be designed and applied to this early stage, where there aren't any detailed path requests yet?
- What should be the role of RBs?
 - E.g. monitoring mandate, right for applicants to appeal?
- How will TTR work alongside economic equilibrium tests and framework agreements?

Capacity model and capacity supply

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- Confidentiality vs transparency
 - The need for applicants to reveal their business plans in CNAs at X-24 rather than during the ATT may create new challenges during the consultation of the capacity model and especially the capacity supply.
 - How can the confidentiality of applicants' plans be safeguarded?
 - How can procedures for planning and consultation be designed in a way which does not reveal significant information about new or changed traffic which may enable competitors to act on this information to emulate or prevent the business approach, while at the same time allowing transparent processes?
 - For vertically integrated companies, will applicants have sufficient trust that information is not transmitted from an IM branch to a RU branch?
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TTR and the future of access

- IRG-Rail has taken note that besides TTR there are many other initiatives to reform European capacity allocation, not least in international passenger transport, which are all needed after 20 years of experience with railway liberalisation in the EU.
 - IRG-Rail has, to date, not actively engaged with all these initiatives.
 - Regardless of what happens, the ongoing process to adjust the regulatory framework needs to address and safeguard the basic issues which are key to any well-functioning railway market, e.g. **transparency, non-discrimination, fairness and efficiency.**
 - How will stakeholders be duly involved in the future processes?
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Many thanks for your attention !

<https://www.irg-rail.eu/>
