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from:	General Secretariat
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Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure - Outcome of the European Parliament's first reading (Strasbourg, 24 to 27 February 2014)

I. INTRODUCTION

The rapporteur, Mr Saïd EL KHADRAOUI (S&D, BE), presented a report on the abovementioned proposal, on behalf of the Committee on Transport and Tourism (TRAN). The report contained 86 amendments (amendments 1 - 86).

In addition, 37 other amendments (amendments 87 - 125¹) had been tabled by political groups (S&D, ALDE and EUL/NGL) and groups of 40 or more MEPs.

¹ Amendments 115 and 116 had been cancelled.

II. DEBATE

The debate on the proposal took place on 25 February 2014.

The debate was a joint debate on the six proposals making up the fourth railway package (the single European railway area; opening of the market for domestic passengers; interoperability of the railway system; railway safety; the European Union Agency for Railways (ERA) and Common rules for the accounts of railway undertakings)².

The rapporteur on the **single European railway area**, Mr Saïd EL KHADRAOUI (S&D, BE), opened the debate and:

- noted that the issue of reform of the European railways was a sensitive and complex undertaking and the subject of a heated debate. While personally he was not "demandeur" for opening up domestic markets, he acknowledged that if Europe wanted a single railway area, there had to be certain common rules about the choice of operators and under which conditions they could operate;
- stated that the proposals of the Commission were unacceptable because they did not take account of the differences in networks and structures, as well as the different experiences of countries and regions with the opening up of markets. The opening of markets should not be a goal in itself but a means to create the right impetus for providing a better service to people;
- put forward four aspects that were key to achieve that goal:
 - firstly, the right balance had to be found between opening up the markets and the protection of public service obligations. The "cherry picking" of commercially attractive lines, leaving the historic operators only with loss generating lines, had to be prevented;
 - secondly, a regulation of the market at European level, required agreement on a number of basic rules on the structure of the railway companies, the role of the infrastructure manager and the links between this entity and the operators of the lines as well as with the holding company (if such existed);

² See also documents 6816/14, 6821/14, 6822/14, 6829/14, 6830/14.

- thirdly, a level playing field as concerns social aspects had to be ensured to avoid that competition is established at the cost of employees;
- finally, the passenger rights as concerns ticketing and travel information had to be strengthened;
- found that in all of these areas, there had been fruitful exchanges, and that a package had been found which gathered a majority in the Committee and was a good basis for continuing work. In particular, he found it essential that a way had been found to protect public services from "cherry picking";
- noted that the issue of a proper functioning of the market had been the subject of divergence in the Committee. The compromise found, also on the proposal for the regulation on the opening of domestic markets, was miles apart from the Commission proposal. On the issue of minimum service, his group was strongly against the amendment tabled;
- concluded that he hoped for broad support in order to have a strong mandate for negotiations with the Council.

The rapporteur on the **opening of the market for domestic passengers**, Mr Mathieu GROSCH (EPP, BE):

- welcomed that despite the heated debate, it had been possible to find rational compromises with the goal of finally turning 27 railway markets into a European market. Contrary to what some claimed, an increase of the efficiency of the railways was key in order to create more jobs;
- highlighted that improvements had been made to the Commission proposals, e.g. as concerns the competent authorities that should be allowed flexibility to take into account local aspects, but on the other hand also should respect certain common rules (for example sustainability and the rights of passengers);

- as concerns the main issue of competition, there was support to the Commission' proposal on access to rolling stock. However, when it came to public tendering the Committee had fundamentally changed the proposal. There was no reason to make major changes to what in principle functioned well currently. Rather improvements should be made to what was not working and here the Parliament put efficiency first, aiming at focusing on people and passengers (punctuality, efficient customer service and reliability). Therefore, the possibility of direct award had been kept and tendering should thus not be the only means of awarding a contract. The Parliament proposed kilometer threshold criteria in relation to the award of contracts and it was open to adapt these in discussions with the Council;
- finally, expressed support for the reciprocity principle as concerns the access to tendering in other Member States and believed that the issue of strike right/minimum service was worth a debate. He was not questioning the right to strike but merely pointed out that strikes had certain detrimental consequences and that should be acknowledged.

The rapporteur on the **interoperability of the railway system**, Ms Izaskun BILBAO BARANDICA (ALDE, ES):

- stated that the best way of improving competitiveness was to create an integrated policy on mobility of goods and services;
- underlined the importance of creating more impetus for innovation;
- pointed out the plethora of rules with too much red tape that represented a barrier for undertakings;
- highlighted that she would have liked to have gone further, but that a number of compromises made represented progress, inter alia:
 - the European Railway Agency (ERA) would have the competence to authorise rolling stock in the EU;
 - there would be a register of the trains and of the corridors with the suggestion of having a single manager;
 - the ERA should also play a role in the development of the European Rail Traffic Management System (ERTMS).

The rapporteur on **railway safety**, Mr Michael CRAMER (Greens/EFA, DE):

- highlighted that the fourth railway package was an important step to strengthen an environmental friendly railway and to create a single railway area. The technical part of the package (i.e. this proposal and the ones on interoperability and on the European Railway Agency) was negotiated in a consensual and closely coordinated way. While there were serious concerns on the political aspects of the package, the technical aspects were nevertheless important;
- stated that although railway was the safest means of transport, one could not stay idle and every accident had to be prevented. Therefore, the proposal of the Commission to introduce a European Safety Certificate was welcomed given that national certification did not work properly and created barriers;
- emphasised the importance of work and resting hours and qualifications of staff for the safety, as well as ensuring that staff could report issues that could endanger safety to an independent contact point in order to prevent accidents. He personally supported amendments tabled by the S&D group to strengthen those aspects further;
- argued that more transparency was needed in the context of separation between network and operators as a means to ensure that profits from infrastructure be reinvested in infrastructure in Europe;
- criticised that the Council had not finalised its work on all of the three technical dossiers, with the one on the European Railway Agency still not finalised, in order to enable negotiations on these proposals still under this legislature.

The rapporteur on the **European Union Agency for Railways (ERA)**, Mr Roberts ZILE (ECR, LV):

- stated that while the goal was to create a common rail area, it was clear that this would not be possible in one step, but with this package an important step had been taken;
- believed that a quick agreement could be found with the Council on the technical part of the package and that without agreement on these technical files, there would be no hope of agreement on the political files;

- as regards his file, recalled that it should be seen together with the one on interoperability and the one on safety. The European Railway Agency (ERA) would act as a one stop shop and have three functions:
 - authorise the use of vehicles in Europe;
 - issue railway safety certificates;
 - verify the physical rail infrastructure;
- recalled that Parliament wanted to see a faster appeal procedure, a clearer link between the ERA and national authorities and to ensure that fees would not present an obstacle. He believed that good compromises had been found on those issues;
- welcomed that the specificities of so called isolated markets (like the Baltic states) had been taken into account;
- concluded by commenting on the issue of liberalisation, where he thought that it was not justified to continue to treat the railway area in a completely different way than for example air transport. 46 billion could be saved in subsidies.

The rapporteur on **Common rules for the accounts of railway undertakings**, Mr Jaromír KOHLÍČEK (EUL/NGL, CZ):

- recalled that only 4 or 5 countries had made use of the regulation, but nevertheless believed that it was premature to repeal the regulation without further analysis of the consequences. Rather the Commission should create a stronger regulation based on a profound analysis of the current regime;
- had therefore proposed that instead of simply repealing the regulation as proposed by the Commission, the repeal should be postponed for two years. If amendment 2 to that effect was not supported, he would withdraw his name from the report;
- finally, on liberalisation, argued that even profitability on the most busy lines in smaller countries was limited and that liberalisation of one line would mean the end to long distance travelling by rail.

Commissioner KALLAS:

- recalled that the aim of the six proposals in the railway package was to complete the internal market for rail services and create a true single European railway area, overcoming the 26 or so fragmented railway markets. He was convinced that it would happen eventually. Both passengers and businesses called for more attractive, efficient, cross-border and customer-oriented services;
- stated that the proposals took a consistent approach in addressing the challenges that remained despite the adoption of the three previous railway packages, i.e. the fragmented technical rules and procedures and the obstacles to market entry that still existed;
- highlighted some main features of the proposals:
 - making the European Railway Agency responsible for promoting interoperable technical rules and issuing safety certificates and vehicle authorisations valid throughout the EU, thus cutting costs by about 500 mio. EUR and reducing lengthy procedures;
 - in order to make market opening work, strengthening infrastructure managers and guaranteeing their independence to ensure fair and non-discriminatory access to the network;
 - establishing clear governance rules and requirements on financial transparency that together with powerful regulators were essential conditions to make sure that gradual market opening delivered more efficient rail services with better quality and cost;
 - introducing the principle of mandatory competitive award of public service rail contracts, while preserving the ability of Member States to define public service obligations as the best way to get the highest value for taxpayer's money. While competition was not an end in itself, it was an important means to achieve better efficiency and quality of service;
- found that the compromises found in the Parliament could have been more ambitious as concerns tendering procedures for public service contracts in rail (postponed to 2022 and with even longer transitional periods); the extension of possibilities envisaged for direct award of rail contracts; significant softening of separation requirements and delegation to national regulators and the reduction of Commission's implementing powers;

- concluded by acknowledging the complexity and controversy of the package, but insisted that changes were needed to create a more efficient and fair railway system in Europe without the current barriers. It was difficult to understand why there was no train line between Berlin and Brussels, or why it was not possible to run freight between Italy and Estonia, or why one operator should de facto pay to a competing operator for the use of infrastructure. More cross-border business had to be created to bring more jobs, more revenue and more economic benefit and less environmental damage.

The rapporteur for the opinion from the Committee on Budgets, Ms Jutta HAUG (S&D, DE), spoke out against what she saw as going beyond the agreed 5 % reduction of personnel of the European Railway Agency. Furthermore, following the adoption of the package, the Commission ought to come back with a new financial frame taking into account the additional tasks and the related financial and personnel needs of the Agency.

The rapporteur for the opinion from the Committee on Employment and Social Affairs, Mr Frédéric DAERDEN (S&D, BE), stated that his Committee inter alia had achieved the obligatory transfer of personnel under the same working conditions, social criteria in tendering, respect for collective agreements, also between Member States, and the requirement of certification of on board staff. He called for the withdrawal of the amendment on minimum service which ran counter to fundamental rights of trade unions.

The rapporteur for the opinion from the Committee on Regional Development, Ms Marie-Thérèse SANCHEZ-SCHMID (EPP, FR), recalled the problems caused by the lack of interoperability, in particular in the border regions. The proposed reforms were therefore essential and would allow for crossing the borders without for example having to change trains and would bring border regions out of isolation and make them more attractive.

The other rapporteur for the opinion from the Committee on Regional Development, Mr Joachim ZELLER (EPP, DE), was concerned about the impact of separation between infrastructure and operators on smaller and medium sized railway companies that were mostly organised as integrated companies. A strict separation would not be affordable for those companies alone due to the duplication of personnel structures and in times of crisis would threaten their existence. He regretted that the Transport Committee had not supported his Committee's views on that aspect and appealed for supporting amendment 87.

Speaking on behalf of the EPP group, Mr Luis DE GRANDES PASCUAL (ES):

- stated that the fourth railway package was necessary because despite the overhaul over the last 8 years, railway had not succeeded in becoming an efficient and sustainable mode of transport;
- argued that in the context of the proposed greater access between Member States' markets, it was necessary that the European Railway Agency act as a one stop shop for the authorisation of vehicles and that greater interoperability was achieved through as much harmonisation as possible in the technical area;
- believed that the governance pillar of the package would allow for a dynamic, open and competitive market;
- hoped that the Council would live up to what the Commission had done and what the Parliament tried to achieve.

Speaking on behalf of the S&D group, Ms Inés AYALA SENDER (ES):

- stated that rail represented 70.000 jobs and a huge amount of public investment and that there had to be quality in the service. However, that was not the case currently and service needed to be improved. The efforts to modernise and bring more transport from road to rail had not really worked so far;
- argued that rail had to become more transparent and that the reports of the rapporteurs on the two proposals on opening up of markets were the last opportunity to ensure that things did not get worse;

- found that the technical files provided a good basis which should allow to simplify 11.000 pages of national legislation that represented an obstacle to developing the sector. The European Railway Agency should be given substantial certification powers in close co-operation with national authorities.

Speaking on behalf of the ALDE group, Mr DE BACKER Philippe (BE):

- stated that with sufficient courage of the Parliament, the vote on the fourth railway package could be the end point of the debate on the single railway area in Europe that had been taking place since 1991. If so, there would finally be a technical pillar enabling effective harmonisation and interoperability with a European Railway Agency equipped with strong competences and that could issue safety certificates across Europe;
- welcomed that the step towards market opening would finally be taken foremost in the passenger area which would enable a better railway. Those countries who had liberalised such as Sweden were the countries with the highest scores on punctuality, service, quality and customer satisfaction;
- emphasised the need to secure sufficient transparency as concerns the flow of money between the infrastructure managers and the operators to create a level playing field for all undertakings. A separation was called for with operators being given much more freedom to enter markets. He deplored the lobbying of the state monopolies, against the interests of their own citizens, aimed at preventing the necessary steps being taken;
- concluded by stating that it was important to deploy all efforts to maintain the package of the Commission; to open up the markets; to ensure improvement of the quality of services to passengers and finally to achieve the aim of a single railway area.

Speaking on behalf of the Greens/EFA group, Mr Karim ZÉRIBI (FR):

- stated that the objective of market opening should not lead to lower quality of service and working conditions for employees in the railway sector. The fourth railway package brought about progress on technical aspects, but in relation to the political aspects it was not satisfactory. Therefore his group had certain reservations on a number of points;
- welcomed the fact that the technical pillar, which found unanimous agreement in the Committee, allowed to improve interoperability and cross border links;

- as concerns the proposal related to public service obligations, found that convergence had been found on a solution that took into account social aspects, the interests of passengers and quality criteria, which would enable conditional direct award of contracts. This despite an unacceptable dogmatic proposal from the Commission. However, he was completely in disagreement about the issue of reciprocity as concerns participation in tenders which he found was directly aimed at penalising a specific company;
- deplored that the rapporteur as regards the governance of railways had not proposed to change the Commission proposal that was clearly an obstacle to putting in place an integrated structure while guaranteeing financial transparency. He also regretted that the public services contracts were put in question whereas the current legislation protected these.

Speaking on behalf of the ECR group, Mr Oldřich VLASÁK (CZ):

- stated that passengers were not satisfied under the current system and believed that as concerns market opening one had to look at examples where passengers were satisfied. He mentioned the line between Prague and Ostrava in the Czech Republic as a good example of opening up of a market and how railways could function within that framework;
- warned that if conditions were not equal for all, then there would be no chance to win on this issue and to work on future packages. He found that the status quo was not satisfactory and wanted improvements.

Speaking on behalf of the EUL/NGL group, Ms Sabine WILS (DE):

- stated that her group supported the protests against the liberalisation of railways by the railway workers that were concerned about their jobs and wage dumping. For her group, the running of railways was a public task;
- criticised that the Commission had continued the line of liberalisation without having seriously analysed the impact of the packages already adopted. Now domestic passenger markets should be subjected to competition, whereas the example of UK showed that this had led to lower safety and quality;

- highlighted particular areas of concern:
 - the proposal on separation between networks and operators;
 - the extension of the public tender obligation;
 - the minimum service provision which threatened the right to strike.

Speaking on behalf of the EFD group, Mr Juozas IMBRASAS (LT):

- recalled that there was currently no unanimous agreement amongst Member States on the forth railway package, in particular on the issue of separation between infrastructure and operators;
- was convinced that separation of effectively functioning integrated companies would reduce efficiency, increase costs and make the sector more dependant on the state budget. In addition, there was in some countries competition from economically strong third country companies with vertically integrated structures. The Commission overlooked that opening of the market in this context could have some detrimental effects. He mentioned as example his own country where there as concerns freight was fierce competition from companies situated in the Commonwealth of Independent States;
- stated that EU should focus on major issues that would ensure fair and transparent competition and would improve the efficiency of railways.

The subsequent interventions focused on the issues of market opening and the separation between infrastructure managers and operators of railway lines. The following comments can be highlighted:

Mr Gilles PARGNEAUX (S&D, FR):

- believed that liberalisation would only lead to competition at the expense of quality, social dumping, lowering of safety, increased public spending and increased ticket prices, thereby highlighting the UK experience;
- argued that the model where the infrastructure manager was part of a group that also acted as operator in a large number of cases was the most efficient one both from a financial and operational point of view;
- in this context, together with 70 or so other colleagues, had tabled amendments allowing for more flexibility as concerns the governance aspects.

Mr Ramon TREMOSA i BALCELLS (ALDE, ES):

- stated that the status quo on the regulation relating to Public Service Obligation (PSO) was not an option and the market should be opened as soon as possible through, for example, mandatory tendering of public service contracts;
- supported together with his group the initial Commission proposal on a deadline for 2019 to put this in place, but the rapporteur together with the S&D shadow did not see the pressure for change and kept the possibility of direct awards;
- recommended that his group abstain on the vote on the PSO dossier

Mr Markus FERBER (EPP, DE):

- questioned whether it was really necessary to separate the infrastructure manager from the operator to achieve competition. The situation in Member States varied on this issue, but it wouldn't bring more competition to the railway sector;
- argued that the path of interoperability was much more important, so as to ensure that a train that was authorised in country A also could run in country B. To run railways as in the 19th century, where everything stopped at the border, was anachronistic. Type approval of technical equipment was the only way to achieve more competition in the railway sector.

Mr Jörg LEICHTFRIED (S&D, AT):

- criticised Commissioner KALLAS for turning transport policy into ideology, environment friendliness into liberalisation and optimisation into privatisation with detrimental effects for passengers;
- stated that he was not prepared to vote for a transport policy that profited a few and damaged the many. In addition, when somebody said that the right of strike had to be restricted to make it work, then it was time for him to say no. 25 May 2014 would be an occasion to ensure that there would be a different policy in the future.

III. VOTE

The vote on the proposal took place on 26 February 2014. The European Parliament adopted 92 amendments to the proposal.

All but six of the Committee's amendments (amendments 11, 46, 48, 51, 57 and 58) were adopted, some amendments only partially. In addition, 12 other amendments were adopted (amendments 87, 117 - 125 by groups of 40 or more MEPs, amendment 101 by the EUL/NGL group and amendment 114 by the S&D group)³.

The amendments adopted are set out in the Annex together with the legislative resolution.

³ Some of the amendments were identical.

Single European railway area *I**

European Parliament legislative resolution of 26 February 2014 on the proposal for a directive of the European Parliament and of the Council amending Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure (COM(2013)0029 – C7-0025/2013 – 2013/0029(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0029),
 - having regard to Article 294(2) and Article 91 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0025/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the French Senate, the Lithuanian Parliament, the Chamber of Deputies of the Grand Duchy of Luxembourg, the Netherlands Senate, the Netherlands House of Representatives and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 11 July 2013¹,
 - having regard to the opinion of the Committee of the Regions of 8 October 2013²,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on Employment and Social Affairs and the Committee on Regional Development (A7-0037/2014),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 327, 12.11.2013, p. 122.

² OJ C 356, 5.12.2013, p. 92.

Amendment 1

Proposal for a directive Recital 1

Text proposed by the Commission

(1) Over the past decade, the growth of passenger traffic by rail has been insufficient to increase its modal share in comparison to cars and aviation. The 6 % modal share of passenger transport for rail in the European Union has remained fairly stable. Rail passenger services have not kept pace with evolving needs in terms of offer or quality.

Amendment

(1) Over the past decade, ***the European motorway network has grown by 27 %, but the railway network in use has shrunk by 2 %.*** Furthermore, the growth of passenger traffic by rail has been insufficient to increase its modal share in comparison to cars and aviation. The 6 % modal share of passenger transport for rail in the European Union has remained fairly stable ***and*** rail passenger services have not kept pace with evolving needs in terms of offer or quality.

Amendment 2

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The principal reasons for rail's insufficient modal share in Europe include unfair competition as regards other modes of transport, a lack of political will to develop rail transport and under-investment in rail networks.

Amendment 3

Proposal for a directive Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The practical effects of the provisions of those Directives need to be assessed by checking the quality of the services provided on the basis of specific facts, tendering and use rates, costs and charges.

Amendment 4

Proposal for a directive

Recital 2 b (new)

Text proposed by the Commission

Amendment

(2b) In order to establish a single European rail area, it is vital for the relevant legislation to be effectively and fully applied in all the Member States within the prescribed time-limits. Given the deficiencies that have been identified in the sector, the Member States should keep a close eye on the implementation of Union legislation.

Amendment 5

Proposal for a directive

Recital 2 c (new)

Text proposed by the Commission

Amendment

(2c) Several studies and questionnaires demonstrate that, in Member States that have opened their markets for domestic passenger transport, such as Sweden and the United Kingdom, the railway market has grown, including more satisfied passengers and personnel.

Amendment 6

Proposal for a directive

Recital 3

Text proposed by the Commission

Amendment

(3) Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area⁸ establishes a single European railway area with common rules on the governance of railway undertakings and infrastructure managers, on infrastructure financing and charging, on conditions of access to railway infrastructure and services and on regulatory oversight of the rail market. With all these elements in place, it is now

(3) Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area⁸ establishes a single European railway area with common rules on the governance of railway undertakings and infrastructure managers, on infrastructure financing and charging, on conditions of access to railway infrastructure and services and on regulatory oversight of the rail market. With all these elements in place, it is now

possible to complete the opening of the Union railway market and reform the governance of infrastructure managers with the objective of ensuring equal access to the infrastructure.

⁸ OJ L 343, 14.12.2012, p. 32.

Amendment 7

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

possible to complete the opening of the Union railway market and reform the governance of infrastructure managers with the objective of ensuring equal access to the infrastructure ***in order to improve the quality of rail services throughout the Union while safeguarding social standards and employment conditions.***

⁸ OJ L 343, 14.12.2012, p. 32.

Amendment

(3a) The completion of the opening of the Union railway market should be seen as essential in order to enable rail to become a credible alternative to other modes of transport in terms of price and quality.

Amendment 8

Proposal for a directive Recital 4

Text proposed by the Commission

(4) Directive 2012/34/EU requires the Commission to propose, if appropriate, legislative measures in relation of the opening of the market for domestic passenger transport services by rail and to develop appropriate conditions to ensure non-discriminatory access to infrastructure, building on the existing separation requirements between infrastructure management and transport operations.

Amendment

(4) Directive 2012/34/EU requires the Commission to propose, if appropriate, legislative measures in relation of the opening of the market for domestic passenger transport services by rail and to develop appropriate conditions to ensure ***the most cost efficient*** non-discriminatory access to ***infrastructure including incumbent-owned sales*** infrastructure, building on the existing separation requirements between infrastructure management and transport operations.

Amendment 9

Proposal for a directive Recital 4 a (new)

(4a) The opening of the market for domestic passenger transport will have a positive impact on the working of the European railway market; this will lead to greater flexibility and more possibilities for companies and passengers. Railway personnel will also benefit from the opening, as it will improve their chances of providing their services to new players on the market. Experienced workers can give the new players added value, leading to better labour conditions.

Amendment 10

**Proposal for a directive
Recital 4 b (new)**

(4b) Member States are responsible for the organisation of their labour markets for railway personnel. They should however make sure that the way in which the labour market is organised does not harm the quality of the service. Union law already provides for a clear framework for the protection of railway workers.

Amendment 117

**Proposal for a directive
Recital 5**

(5) Better coordination between infrastructure managers and railway undertakings should be ensured through the establishment of a coordination committee, in order to achieve efficient management and use of the infrastructure.

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In addition, in order to ensure the smooth running of operations in the daily management of the network, including the management of traffic on the network during the winter season, the

infrastructure manager at traffic control level should coordinate with railway undertakings, without compromising its independence and responsibility for managing the network and complying with the existing rules.

Amendment 12

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) In order to secure sufficient and fair competition within the European railway area, it is necessary not only to guarantee non-discriminatory access to infrastructure but also to integrate national rail networks and strengthen the regulatory bodies. Such strengthening should take the form of extending the powers of the competent regulatory bodies and developing a network of regulatory bodies which would in future be a key operator in the regulation of the rail transport market in the Union.

Amendment 13

Proposal for a directive Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) The infrastructure manager, in exercising all the relevant functions as provided for in this Directive, should be required to use its competences to constantly improve the efficiency of the management of the rail infrastructure with a view to providing high-quality services to its users.

Amendment 14

Proposal for a directive Recital 7

Text proposed by the Commission

(7) Cross-border issues should be addressed efficiently between infrastructure managers of the different Member States through the establishment of a European network of infrastructure managers.

Amendment

(7) ***Without prejudice to Member States' powers as regards infrastructure planning and financing***, cross-border issues ***such as track-access charges*** should be addressed efficiently between infrastructure managers of the different Member States through the establishment of a European network of infrastructure managers.

Amendment 15

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) In order to ensure equal access to the infrastructure, ***any conflicts of interest resulting from*** integrated structures ***encompassing*** infrastructure management and transport activities ***should be removed***. Removing incentives to discriminate against competitors is the only way to guarantee equal access to the railway infrastructure. It is a requirement for the successful opening of the market for domestic passenger transport services by rail. This should also remove the potential for cross-subsidisation, which exists in such integrated structures, and which also leads to market distortions.

Amendment

(8) In order to ensure equal access to the infrastructure, integrated structures ***should be shaped in such a way that no conflicts of interest arise between*** infrastructure management and transport activities. Removing ***potential*** incentives to discriminate against competitors is the only way to guarantee equal access to the railway infrastructure. It is a requirement for the successful opening of the market for domestic passenger transport services by rail. This should also remove the potential for cross-subsidisation, which exists in such integrated structures, and which also leads to market distortions, ***as well as arrangements in respect of staff remuneration and other benefits which might result in preferential treatment compared to competitors***.

Amendment 16

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) The existing requirements for the independence of infrastructure managers from railway transport undertakings, as laid down in Directive 2012/34/EU, only cover the essential functions of the

Amendment

(9) The existing requirements for the independence of infrastructure managers from railway transport undertakings, as laid down in Directive 2012/34/EU, only cover the essential functions of the

infrastructure manager, which are the decision-making on train path allocation, and the decision-making on infrastructure charging. It is however necessary that all the functions are exercised in an independent way, since other functions may equally be used to discriminate against competitors. This is in particular true for decisions on investments or on maintenance which may be made to favour the parts of the network which are mainly used by the transport operators of the integrated undertaking. Decisions on the planning of maintenance works may influence the availability of train paths for the competitors.

infrastructure manager, which are the decision-making on train path allocation, and the decision-making on infrastructure charging. It is however necessary that all the functions are exercised in an independent way, since other functions may equally be used to discriminate against competitors. This is in particular true for decisions on ***access to ticketing services, stations and depots, on*** investments or on maintenance which may be made to favour the parts of the network which are mainly used by the transport operators of the integrated undertaking. Decisions on the planning of maintenance works may influence the availability of train paths for the competitors.

Amendment 17

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Despite the implementation of the safeguards set out in Directive 2013/34/EU guaranteeing the independence of the infrastructure manager, vertically integrated undertakings could use their structure to give railway operators belonging to such undertakings an undue competitive edge.

Amendment 18

Proposal for a directive Recital 11

Text proposed by the Commission

Amendment

(11) Member States should therefore be required to ensure that the same legal or natural person or persons are not entitled to exercise control over an infrastructure manager and, at the same time, exercise control or any right over a railway undertaking. Conversely, control over a railway undertaking should preclude the possibility of exercising control or any

(11) This Directive aims to establish free and fair competition between all railway undertakings, and therefore precludes a railway undertaking from retaining a vertically integrated model as defined in Article 3.

right over an infrastructure manager.

Amendment 19

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Improving railway safety should be considered seriously during the process of opening the market for domestic passenger transport services by rail, particularly when it comes to reforming the integrated structures currently in place, in order to avoid the creation of additional administrative obstacles compromising the maintenance and improvements of safety.

Amendment 107

Proposal for a directive
Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) The possibility for an infrastructure manager to pay dividends to the ultimate owner of the vertically integrated undertaking should not prevent the infrastructure manager from constituting reserves in order to improve its financial situation and to balance its accounts over a reasonable period as required by this Directive. All dividend payments of the infrastructure manager should be earmarked to be used for investments in the renewal of the railway infrastructure in operation.

Amendment 108

Proposal for a directive
Recital 12 c (new)

Text proposed by the Commission

Amendment

(12c) The holding company in a vertically integrated undertaking may contribute to strategic decisions necessary for the good

functioning of the railway transport system as a whole in the interest of all parties active in the railway market, without prejudice to the decisions pertaining to the functions of the infrastructure manager.

Amendment 109

Proposal for a directive Recital 12 d (new)

Text proposed by the Commission

Amendment

(12d) It shall also be possible for the representatives of the ultimate owners of the vertically integrated undertaking in the Supervisory Board to include persons appointed by the ultimate owners but not employed by them, provided they do not have any responsibility or interest in any other entity of the vertically integrated undertaking.

Amendment 110

Proposal for a directive Recital 12 e (new)

Text proposed by the Commission

Amendment

(12e) The rules ensuring the independence of the infrastructure manager within the vertically integrated undertaking should be without prejudice to the Eurostat criteria on government deficit and debt, since in any case the holding, even taking into account the safeguards for the independence of the infrastructure manager, may still retain ownership of the infrastructure and in addition a sufficient number of functions in order not to be considered as a purely artificial entity having as its sole purpose the reduction of government debt within the meaning of those criteria.

Amendment 20

Proposal for a directive

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Taking into account the heterogeneity of networks in terms of their size and density and the variety in the organisational structures of national and local or regional authorities and their respective experiences of the process of market opening, each Member State should be given sufficient flexibility to organise its network in such a way that a mix of open-access services and services performed under public service contracts can be achieved in order to ensure a high quality of services readily accessible to all passengers. Following selection of the public service contracts to be put out to tender, each Member State should establish on a case-by-case basis which safeguard mechanisms are to be introduced for each service should the tender procedure not be successfully completed. Those mechanisms should not in any way generate additional charges for the railway undertakings managing those services.

Amendment 21

Proposal for a directive

Recital 14

Text proposed by the Commission

Amendment

(14) Granting Union railway undertakings the right of access to railway infrastructure in all Member States for the purpose of operating domestic passenger services may have implications for the organisation and financing of rail passenger services provided under a public service contract. Member States should have the option of limiting such right of access where it would compromise the economic equilibrium of those public service contracts and where approval has been given by the relevant regulatory body.

(14) Granting Union railway undertakings the right of access to railway infrastructure in all Member States for the purpose of operating domestic passenger services may have implications for the organisation and financing of rail passenger services provided under a public service contract. Member States should have the option of limiting such right of access where it would compromise the economic equilibrium of those public service contracts ***or the quality of the service that they provide*** and where approval has been given by the relevant regulatory body.

Amendment 22

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) Regulatory bodies should assess the potential economic impact of domestic passenger services provided under open access conditions on existing public service contracts ***following a request made by interested parties and on the basis of an objective economic analysis.***

Amendment

(15) ***On its own initiative or following a request made by interested parties,*** regulatory bodies should assess, ***on the basis of an objective economic analysis,*** the potential economic impact of domestic passenger services provided under open access conditions on existing public service contracts.

Amendment 23

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) When assessing whether the economic equilibrium of the public service contract would be compromised, regulatory bodies should consider the economic impact of the intended service on existing public service contracts taking into account its impact on the profitability of any services included in such public service contracts ***and*** the consequences for the net cost to the competent public authority that awarded the contracts. To make this assessment, factors such as passenger demand, ticket pricing, ticketing arrangements, location and number of stops and the timing and frequency of the proposed new service should be examined.

Amendment

(18) When assessing whether the economic equilibrium of the public service contract would be compromised, regulatory bodies should consider the economic ***and social*** impact of the intended service on existing public service contracts, taking into account its impact on the profitability of any services included in such public service contracts, the consequences for ***enhancing cohesion policy in the area concerned and*** the net cost to the competent public authority that awarded the contracts. To make this assessment, factors such as passenger demand, ticket pricing, ticketing arrangements, location and number of stops and the timing and frequency of the proposed new service should be examined.

Amendment 24

Proposal for a directive

Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) In order to determine whether the quality of the service provided under a

public service contract is affected by a free-access service on the same network, the regulatory bodies should take into account, in particular, network effects, the maintenance of connections and the punctuality of the services provided under the public service contract.

Amendment 25

Proposal for a directive Recital 19

Text proposed by the Commission

(19) In order to increase the attractiveness of railway services for passengers, Member States should ***be in a position to*** require railway undertakings operating domestic passenger services to participate in a common information and integrated ticketing scheme for the supply of tickets, through-tickets and reservations. ***If*** such a scheme ***is established, it*** should ***be ensured*** that it does not create market distortion or discriminate between railway undertakings.

Amendment

(19) In order to increase the attractiveness of railway services for passengers, Member States should require railway undertakings operating domestic passenger services to participate in a common information and integrated ticketing scheme for the supply of tickets, through-tickets and reservations. Such a scheme should ***ensure*** that it does not create market distortion or discriminate between railway undertakings.

Amendment 26

Proposal for a directive Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) It is important that railway undertakings engage in the development of integrated ticketing schemes, in particular as regards local and regional transport, in order to increase the attractiveness of rail transport for passengers. Such schemes should not create market distortion or discriminate between railway undertakings.

Amendment 27

Proposal for a directive Recital 19 b (new)

(19b) Since the new package seeks to strengthen passenger rights, and as freedom of movement is one of the basic pillars of the Union, greater efforts should be made to also safeguard that right for disabled persons and for persons with reduced mobility. This makes improving accessibility to means of transport and infrastructure a priority. In order to achieve that objective, cross-border contacts should be encouraged. This also applies to the assistance provided for that specific category of passengers, which should be harmonised within a broader system. A consultation process should be launched in this respect, involving the social partners, the public and organisations for the protection of the rights of disabled persons.

Amendment 28

**Proposal for a directive
Recital 19 c (new)**

(19c) In the light of the experience acquired through the network of regulatory bodies provided for in Article 57 of Directive 2012/34/EU, the Commission should, by no later than 31 December 2016, draw up a legislative proposal strengthening the network of regulatory bodies, formalising its procedures and giving it legal personality. That body should have a supervisory and arbitration function enabling it to deal with cross-border and international problems and to hear appeals against decisions taken by national regulatory bodies.

Amendment 29

**Proposal for a directive
Recital 19 d (new)**

Text proposed by the Commission

Amendment

(19d) With a view to completion of the Single European Railway Area, and given the competition in the railway sector, the Commission is committed to actively supporting and encouraging social dialogue at Union level in order to ensure that railway workers are protected in the long term against unwanted effects of market opening, such as social dumping.

Amendment 30

Proposal for a directive
Recital 19 e (new)

Text proposed by the Commission

Amendment

(19e) Passengers should have access to functioning through-ticketing schemes and integrated ticketing schemes. Such schemes would also make railways a more attractive means of transport for people. Through-ticketing schemes developed by the sector within Member States should be interoperable with each other in order to enable a Union-wide scheme to be created that encompasses all rail passenger operators.

Amendment 31

Proposal for a directive
Recital 19 f (new)

Text proposed by the Commission

Amendment

(19f) In light of the experience acquired through the network of regulatory bodies established pursuant to Article 57 of Directive 2012/34/EU, the Commission should draw up a legislative proposal to replace the network with a European Regulatory Body, formalising its procedures and giving it legal personality, by no later than 31 December 2019, in time for the opening of domestic passenger transport services by rail. That body should have a supervisory and

arbitration function enabling it to deal with cross-border and international problems and to hear appeals against decisions taken by national regulatory bodies.

Amendment 32

Proposal for a directive Recital 19 g (new)

Text proposed by the Commission

Amendment

(19g) In order to avoid social dumping, a railway undertaking should only be able to provide rail transport services if it complies with collective agreements or national laws laying down standards within the Member State in which it intends to act. Provision should therefore be made for equal pay in the same place. The competent regulatory body should monitor compliance with this requirement.

Amendment 33

Proposal for a directive Recital 19 h (new)

Text proposed by the Commission

Amendment

(19h) The national regulatory body should approve or request changes to the arrangements for the transfer of staff. This may include the application of a cooling-off period for staff who are to be transferred. The regulatory body, when taking its decision, should aim at avoiding the transfer of sensitive information from the infrastructure manager to another entity within the integrated undertaking.

Amendment 34

Proposal for a directive Recital 19 i (new)

(19i) The opening of the market should not have any adverse repercussions on the working and social conditions of railway workers. The relevant social clauses should be respected in order to avoid any social dumping or unfair competition by new entrants that fails to respect minimum social standards in the railway sector.

Amendment 35

**Proposal for a directive
Recital 19 j (new)**

(19j) Railway undertakings and infrastructure managers should establish within their safety culture a just culture' in order to actively encourage personnel to report safety related accidents, incidents and near misses without being subject to punishment or discrimination. A just culture enables the railway industry to learn lessons from accidents, incidents and near misses and thereby improve safety on the railway for workers and passengers.

Amendment 36

**Proposal for a directive
Recital 19 k (new)**

(19k) The Commission should ensure the full and correct enforcement by Member States of the provisions of Council Directive 2005/47/EC^{8a}.

^{8a} ***Council Directive 2005/47/EC of 18 July 2005 on the Agreement between the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) on certain aspects of***

the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector (OJ L 195, 27.7.2005, p. 15).

Amendment 37

Proposal for a directive Recital 19 l (new)

Text proposed by the Commission

Amendment

(19l) In the light of the development of the single European railway area and the further opening of the rail transport market, Member States should make use of collective agreements in order to avoid social dumping and unfair competition.

Amendment 38

Proposal for a directive Recital 19 m (new)

Text proposed by the Commission

Amendment

(19m) The Commission should assess the impact of this Directive on the development of the labour market for railway on-board staff and, if appropriate, propose new legislative measures on the certification of such staff.

Amendment 39

Proposal for a directive Recital 19 n (new)

Text proposed by the Commission

Amendment

(19n) On-board personnel are a professional group within the railway sector that performs safety-relevant tasks. It traditionally performs operational safety tasks within the railway system and is responsible for the comfort and safety of passengers on board trains. A certification similar to the certification of locomotive drivers is useful in order to guarantee a high level of qualifications and competences, to recognise the

relevance of that professional group for the safety of rail services but also to facilitate mobility of workers.

Amendment 40

Proposal for a directive Recital 19 o (new)

Text proposed by the Commission

Amendment

(19o) The national regulatory body should approve or request changes to the arrangements for the transfer of staff. This may include the application of a cooling-off period for staff who are to be transferred. The regulatory body, when taking its decision, should aim at avoiding the transfer of sensitive information from the infrastructure manager to another entity within the integrated undertaking.

Amendment 41

Proposal for a directive Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) Infrastructure managers should cooperate in cases concerning incidents or accidents with an impact on cross-border traffic, with a view to sharing any relevant information and thereby avoiding negative spill-over effects;

Amendment 42

Proposal for a directive Recital 20 b (new)

Text proposed by the Commission

Amendment

(20b) The regulatory body should be competent to monitor infrastructure maintenance works so as to ensure that they are not undertaken in a way that leads to discrimination between railway undertakings.

Amendment 43

Proposal for a directive Recital 20 c (new)

Text proposed by the Commission

Amendment

(20c) The infrastructure manager within a vertically integrated undertaking should be able to offer its staff certain social services in premises that are used by other entities of the vertically integrated undertaking.

Amendment 44

Proposal for a directive Recital 20 d (new)

Text proposed by the Commission

Amendment

(20d) The infrastructure manager within a vertically integrated undertaking should be allowed to cooperate with other entities of the vertically integrated undertaking as regards the development of IT systems, subject to the approval of the regulatory body.

Amendment 45

Proposal for a directive Recital 20 e (new)

Text proposed by the Commission

Amendment

(20e) The conditions for offering tickets, through tickets and reservations throughout the Union, as provided for in Article 9 of Regulation (EC) No 1371/2007, should be considered fulfilled once the common travel information and ticketing scheme is set up by 12 December 2019, in line with the provisions of this Directive.

Amendment 118

Proposal for a directive Recital 20 f (new)

Text proposed by the Commission

Amendment

(20f) The regulatory body may produce guidelines on the enhancement of the independence of the staff and management of the infrastructure manager within a vertically integrated undertaking with respect to train path allocation and infrastructure charging.

Amendment 47

Proposal for a directive Recital 20 g (new)

Text proposed by the Commission

Amendment

(20g) Under this Directive, Member States are free at any time to choose between different types of structures for infrastructure managers that co-exist within the single European railway area, namely separated and vertically integrated undertakings, even if they have already introduced a separated type of structure. This Directive lays down various rules and principles governing the internal organisation of those structures.

Amendment 119

Proposal for a directive Recital 20 h (new)

Text proposed by the Commission

Amendment

(20h) For the purpose of this Directive, the concepts of supervisory board, administrative board, management board or bodies legally representing the undertaking should be applied to existing corporate structures in the Member States, while avoiding the creation of additional bodies.

Amendment 49

Proposal for a directive

Article 1 – point -1 (new)

Directive 2012/34/EU

Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

-1. In Article 1, the following paragraph is added:

‘2a. This Directive aims to make rail transport a more attractive means of transport for the European public. It is designed to help to create workable information and integrated ticketing schemes. The through-ticketing schemes developed by the railway sector within Member States should be interoperable with each other in order to enable a Union-wide scheme to be created encompassing all rail passenger operators.’

Amendment 50

Proposal for a directive

Article 1 – point -1 a (new)

Directive 2012/34/EU

Article 1 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

-1a. In Article 1, the following paragraph is added:

‘2b. The objective of this Directive, which is to complete the single European railway area, will be pursued on the basis of social dialogue at Union level in order to ensure that railway workers are appropriately protected against the unwanted effects of the opening of the market.’

Amendment 87

Proposal for a directive

Article 1 – point -1b (new)

Directive 2012/34/EU

Article 2

-1b. In Article 2, the following paragraph is inserted:

'3a. Articles 7, 7a, 7b, 7c, 7d and 7e shall not apply to networks of less than 500 km where:

(a) those networks do not have any strategic importance for the functioning of the European railway market; or

(b) they are technically and organisationally isolated from the main domestic railway network.'

Amendment 52

Proposal for a directive

Article 1 – point 1 – points c a and c b (new)

Directive 2012/34/EU

Article 3

(ca) The following point 32 is added:

'(32) "integrated ticketing scheme" means a ticketing system which allows a person to make a journey that involves transfers within or between different transport modes, such as trains, buses, trams, metros, ferries or airplanes;'

(cb) The following point 33 is added:

'(33) "through ticket" means a ticket or tickets representing a transport contract for successive railway services operated by one or more railway undertakings;'

Amendment 53

Proposal for a directive

Article 1 – point 1 – point c c (new)

Directive 2012/34/EU

Article 3

(cc) The following points 34 and 35 are added:

'(34) "supervisory board" means any group of individuals nominated by the owners of the company to promote their interests, monitor and control the work of the executives and approve the major business management decisions;

(35) "management board" means any group of individuals in charge of executive functions for the day-to-day management of the company;';

Amendment 54

Proposal for a directive

Article 1 – point 1 – point c d (new)

Directive 2012/34/EU

Article 3

(cd) The following point 36 is added:

'(36) "high speed passenger services" means passenger services operated on specially built high-speed lines equipped for speeds generally equal to or greater than 250 km/h and running at those speeds for most of the journey.';

Amendment 120

Proposal for a directive

Article 1 – point 2 a (new)

Directive 2012/34/EU

Article 6 a (new)

2a. The following Article 6a is inserted:

'Article 6a

Provided that no conflict of interest arises and that the confidentiality of commercially sensitive information is guaranteed, nothing in this Directive shall prevent Member States from authorising

the infrastructure manager to engage in cooperation agreements, in a transparent, non-exclusive and non-discriminatory way, with one or more applicants as regards a specific line or a local or regional part of the network, in such a way as to give financial incentives to increase the efficiency of its cooperation in relation to the part of the network concerned. Such incentives may consist in reductions or increases of track access charges corresponding to possible cost savings or revenue increases for the railway undertaking or for the infrastructure manager as a result of that cooperation. Such cooperation shall be aimed at delivering more efficient management of disruptions, maintenance works or congested infrastructure, or of a line or a part of the network prone to delays, or at improving safety. Its duration shall be limited to a maximum of five years and shall be renewable. The infrastructure manager shall inform the regulatory body referred to in Article 55 of the planned cooperation. The regulatory body shall give its prior approval to the cooperation agreement, demand its modification or reject it if the above conditions are not fulfilled. It may require the agreement to be modified at any stage throughout the duration of the agreement. The infrastructure manager shall inform the coordination committee referred to in Article 7d about the cooperation agreement. This paragraph shall not apply to cooperation allowed under Articles 7a and 7b between the infrastructure manager and railway undertakings that are parts of the same vertically integrated undertaking.

Amendment 121

Proposal for a directive

Article 1 – point 3

Directive 2012/34/EU

Article 7 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the infrastructure manager ***performs all the functions referred to in Article 3(2) and*** is independent from any railway undertaking.

To guarantee the independence of the infrastructure manager, Member States shall ensure that infrastructure managers are organised in an entity that is legally distinct from any railway undertaking.

Amendment

1. Member States shall ensure that the infrastructure manager is independent from any railway undertaking.

Where, on the date of entry into force of this Directive, some items of railway infrastructure as defined in Annex I are owned and managed by undertakings other than the infrastructure manager, Member States may decide that such arrangements are to continue, provided that those undertakings are legally distinct and independent from any railway undertaking.

To guarantee the independence of the infrastructure manager, Member States shall ensure that infrastructure managers are organised in an entity that is legally distinct from any railway undertaking.

Amendment 56

Proposal for a directive

Article 1 – point 3

Directive 2012/34/EU

Article 7 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Provided that the provisions concerning the institutional separation of the infrastructure manager, as laid down in paragraphs 1 to 3, are respected, that no conflict of interest arises and that the confidentiality of commercially sensitive information is guaranteed, Member States may authorise the infrastructure manager to engage in cooperation agreements, in a transparent, non-exclusive and non-discriminatory way, with one or more applicants as regards a specific line or a local or regional part of the network, in such a way as to give such applicant an incentive to increase the efficiency of its cooperation in relation to the part of the network concerned. Such incentives shall consist in reductions of track access

charges corresponding to possible cost savings for the infrastructure manager as a result of that cooperation. Such cooperation shall be aimed at delivering more efficient management of disruptions, maintenance works or congested infrastructure, or of a line or a part of the network prone to delays, or at improving safety. Its duration shall be limited to a maximum of five years and shall be renewable. The infrastructure manager shall inform the regulatory body referred to in Article 55 of the planned cooperation. The regulatory body shall give its prior approval to the cooperation agreement, demand its modification or reject it if the above conditions are not fulfilled. It may require the agreement to be modified at any stage throughout the duration of the agreement. The infrastructure manager shall inform the coordination committee referred to in Article 7d about the cooperation agreement.

Amendment 122

Proposal for a directive

Article 1 –point 3

Directive 2012/34/EU

Article 7 – paragraph 5

Text proposed by the Commission

5. Where ***on the date of entry into force of this Directive***, the infrastructure manager belongs to a vertically integrated undertaking, Member States may decide not to apply paragraphs 2 to 4 of this Article. In such case, the Member State concerned shall ensure that the infrastructure manager ***performs all the functions referred to in Article 3(2) and*** has effective organisational and decision-making independence from any railway undertaking in accordance with the requirements set in Articles 7a ***to 7c***.

Amendment

5. Where the infrastructure manager belongs to a vertically integrated undertaking, Member States may decide not to apply paragraphs 2 to 4 of this Article. In such case, the Member State concerned shall ensure that the infrastructure manager has effective organisational and decision-making independence from any railway undertaking in accordance with the requirements set ***out*** in Articles 7a ***and 7b***.

Amendment 123

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Articles 7 a

Text proposed by the Commission

Article 7a

Effective independence of the infrastructure manager within a vertically integrated undertaking

1. Member States shall ensure that the infrastructure manager shall be organised in a body which is legally distinct from any railway undertaking or holding company controlling such undertakings and from any other legal entities within a vertically integrated undertaking.

2. Legal entities within the vertically integrated undertaking that are active in railway transport services markets shall not have any **direct or indirect** shareholding in the infrastructure manager. Nor shall the infrastructure manager have any **direct or indirect** shareholding in any legal entities within the vertically integrated undertaking active in railway transport services markets.

3. The infrastructure manager's incomes may not be used in order to finance other legal entities within the vertically integrated undertaking but only in order to finance the business of the infrastructure manager **and to pay dividends** to the ultimate owner of the vertically integrated company. The infrastructure manager may

Amendment

Article 7a

Effective independence of the infrastructure manager within a vertically integrated undertaking

1. Member States shall ensure that the infrastructure manager shall be organised in a body which is legally distinct from any railway undertaking or holding company controlling such undertakings and from any other legal entities within a vertically integrated undertaking.

2. Legal entities within the vertically integrated undertaking that are active in railway transport services markets shall not have any shareholding in the infrastructure manager, **either directly, indirectly or through subsidiaries**. Nor shall the infrastructure manager have any shareholding in any legal entities within the vertically integrated undertaking active in railway transport services markets, **either directly, indirectly or through subsidiaries**.

This provision shall not, however, preclude the existence of a vertically integrated undertaking where one or more railway undertakings are owned or partly owned by the same undertaking as an infrastructure manager (holding company).

3. The infrastructure manager's incomes may not be used in order to finance other legal entities within the vertically integrated undertaking but only in order to finance the business of the infrastructure manager. ***Dividend payments*** to the ultimate owner of the vertically integrated company ***shall be possible. Those dividend***

not grant loans to any other legal entities within the vertically integrated undertaking, and no other legal entity within the vertically integrated undertaking may grant loans to the infrastructure manager. Any services offered by other legal entities to the infrastructure manager shall be based on contracts and be paid at market prices. The debt attributed to the infrastructure manager shall be clearly separated from the debt attributed to other legal entities within the vertically integrated undertaking, ***and these debts shall be serviced separately.*** The accounts of the infrastructure manager and of the other legal entities within the vertically integrated undertaking shall be kept in a way that ensures the fulfilment of these provisions ***and allows for separate financial circuits for the infrastructure manager and for the other legal entities within the vertically integrated undertaking.***

payments by the infrastructure manager shall be earmarked to be used for investment in the renewal of the infrastructure in operation and shall not prevent the infrastructure manager from constituting reserves in order to manage its profits and losses over the business cycle.

These provisions shall not apply to payments to private investors in the case of public-private partnerships.

The infrastructure manager may grant loans ***only to its own subsidiaries.*** Within the vertically integrated undertaking, ***loans to the infrastructure manager may only be granted by the holding company and shall be subject to monitoring by the regulatory body referred to in Article 55. The holding company shall demonstrate to the satisfaction of the regulatory body that the loan is granted at market price and that it complies with Article 6.***

Any services offered by other legal entities to the infrastructure manager shall be based on contracts and be paid at market prices. The debt attributed to the infrastructure manager shall be clearly separated from the debt attributed to other legal entities within the vertically integrated undertaking.

The accounts of the infrastructure manager and of the other legal entities within the vertically integrated undertaking shall be kept in a way that ensures the fulfilment of these provisions.

4. *Without prejudice to Article 8(4), the infrastructure manager shall raise funds on the capital markets independently and not via other legal entities within the vertically integrated undertaking. Other legal entities within the vertically integrated undertaking shall not raise funds via the infrastructure manager.*

5. The infrastructure manager shall keep detailed records of any commercial and financial relations with the other legal entities within the vertically integrated undertaking and make them available to the regulatory body upon request, in accordance with Article 56(12).

4.

5. The infrastructure manager shall keep detailed records of any commercial and financial relations with the other legal entities within the vertically integrated undertaking and make them available to the regulatory body upon request, in accordance with Article 56(12).

Amendment 124/rev

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Articles 7 b

Article 7b

Effective independence of the staff and

Article 7b

Effective independence of the staff and

management of the infrastructure manager within a vertically integrated undertaking

1. Without prejudice to the decisions of the regulatory body under Article 56, the infrastructure manager shall have effective decision-making powers, independent from the other legal entities within the vertically integrated undertaking, with respect to ***all the functions referred to in Article 3(2)***.

The overall management structure and the corporate statutes of the infrastructure manager shall ensure that none of the other legal entities within the vertically integrated undertaking shall determine, directly or indirectly, the behaviour of the infrastructure manager in relation to ***these functions***.

2. The members of the management board and senior staff members of the infrastructure manager shall not be in the supervisory or management boards or be senior staff members of any other legal entities within the vertically integrated undertaking.

The members of the supervisory or management boards and senior staff members of the other legal entities within the vertically integrated undertaking shall not be in the management board or be senior staff members of the infrastructure manager.

3. The infrastructure manager shall have a Supervisory Board which is composed of representatives of the ultimate owners

management of the infrastructure manager within a vertically integrated undertaking

1. Without prejudice to the decisions of the regulatory body under Article 56, the infrastructure manager shall have effective decision-making powers, independent from the other legal entities within the vertically integrated undertaking, with respect to ***train path allocation and infrastructure charging***.

The overall management structure and the corporate statutes of the infrastructure manager shall ensure that none of the other legal entities within the vertically integrated undertaking shall determine, directly or indirectly, the behaviour of the infrastructure manager in relation to ***train path allocation and infrastructure charging***.

The members of the supervisory board and of the management board of the infrastructure manager and the managers directly reporting to them shall act according to these principles.

of the vertically integrated undertaking.

The Supervisory Board may consult the Coordination Committee referred to under Article 7d on issues under its competence.

Decisions regarding the appointment and renewal, working conditions including remuneration, and termination of the office of the management board members of the infrastructure manager shall be taken by the Supervisory Board. The identity and the conditions governing the duration and the termination of office of the persons nominated by the Supervisory Board for appointment or renewal as members of the management board of the infrastructure manager, and the reasons for any proposed decision terminating the office, shall be notified to the regulatory body referred to in Article 55. Those conditions and the decisions referred to in this paragraph shall become binding only if the regulatory body has expressly approved them. The regulatory body may object to such decisions where doubts arise as to the professional independence of a person nominated for the management board or in the case of premature termination of office of a member of the management board of the infrastructure manager.

Effective rights of appeal to the regulatory body shall be granted for members of the management board who wish to enter complaints against the premature termination of the office.

4. For a period of three years after leaving the infrastructure manager, members of the Supervisory Board or management board and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. For a period of three years after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled

to hold any senior position with the infrastructure manager.

5. The infrastructure manager shall have its own staff *and be located in separate premises from the other legal entities within the vertically integrated undertaking. Access to information systems shall be protected to ensure the independence of the infrastructure manager. Internal rules or staff contracts shall clearly limit contacts with the other legal entities within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. Transfers of staff other than those referred to under point (c) between the infrastructure manager and the other legal entities within the vertically integrated undertaking shall only be possible if it can be ensured that sensitive information will not be passed on between them.*

6. The infrastructure manager shall have the necessary organisational capacity to perform *all of its functions independently from the other legal entities within the*

5. The infrastructure manager shall have its own *management* staff. *Sensitive information held by the infrastructure manager shall be duly protected and shall not be passed on to other entities.*

The infrastructure manager may offer to its staff social services, such as those provided in schools, kindergartens, sport centres and restaurants, in premises used by the other legal entities within the vertically integrated undertaking. The infrastructure manager may cooperate with other entities of the vertically integrated undertaking as regards the development of their information systems.

The regulatory body shall approve or request changes to the arrangements concerning the implementation of this paragraph with the aim of ensuring the independence of the infrastructure manager. The regulatory body may request the integrated undertaking to provide it with any information that may be necessary.

6. The infrastructure manager shall have the necessary organisational capacity to perform its functions.

vertically integrated undertaking and shall not be allowed to delegate to these legal entities the operation of these functions or any activities related to them.

Provided that no conflict of interest, market distortion or discrimination arises and that confidentiality of commercially sensitive information is guaranteed, the infrastructure manager may subcontract specific development, renewal and maintenance works, over which it shall keep the decision-making power, to railway undertakings or to any other body acting under the supervision of the infrastructure manager.

7. The members of the supervisory or management boards and senior staff of the infrastructure manager shall hold no interest in or receive any financial benefit, directly or indirectly, from any other legal entities within the vertically integrated undertaking. Performance-based elements of their remuneration shall not depend on the business results of any other legal entities within the vertically integrated undertaking or any legal entities under its control, but exclusively on those of the infrastructure manager.

Amendments 101 and 125/rev

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Articles 7 c

Procedure of verification of compliance

1. Upon request of a Member State or on its own initiative, the Commission shall decide whether infrastructure managers which are part of a vertically integrated undertaking fulfil the requirements of Article 7a and Article 7b and whether the implementation of these requirements is appropriate to ensure a level playing field for all railway undertakings and the absence of distortion of competition in the relevant market.

2. The Commission shall be entitled to require all necessary information within a reasonable deadline from the Member State where the vertically integrated undertaking is established. The Commission shall consult the regulatory body or bodies concerned and, if appropriate, the network of regulatory bodies referred to in Article 57.

3. Member States may limit the rights of access provided for in Article 10 to railway undertakings which are part of the vertically integrated undertaking to which the infrastructure manager concerned belongs, if the Commission informs Member States that no request has been made in accordance with paragraph 1 or pending the examination of the request by the Commission or if it decides, in accordance with the procedure referred to in Article 62(2), that:

(a) no adequate replies to the Commission information requests in accordance with paragraph 2 have been made, or

(b) the infrastructure manager concerned does not fulfil the requirements set out in Articles 7a and 7b, or

(c) the implementation of requirements set out in Articles 7a and 7b is not sufficient to ensure a level playing field for all railway undertakings and the absence of distortion of competition in the Member State where the infrastructure manager

concerned is established. The Commission shall decide within a reasonable period of time.

4. The Member State concerned may request the Commission to repeal its decision referred to in paragraph 3, in accordance with the procedure referred to in Article 62(2), when that Member State demonstrates to the satisfaction of the Commission that the reasons for the decision do not exist any longer. The Commission shall decide within a reasonable period of time.

5. Without prejudice to paragraphs 1 to 4, the on-going compliance with the requirements set out in Articles 7a and 7b shall be monitored by the regulatory body referred to in Article 55. Any applicant shall have the right to appeal to the regulatory body if it believes that these requirements are not complied with. Upon such an appeal, the regulatory body shall decide, within the time-limits indicated in Article 56(9), on all the necessary measures to remedy the situation.

Amendment 59

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that infrastructure managers set up and organise Coordination Committees for each network. Membership of this committee shall be open **at least** to the infrastructure manager, known applicants in the sense of Article 8(3) and, upon their request, potential applicants, their representative organisations, representatives of users of the rail freight and passenger transport services and, where relevant, regional and local authorities. Member State representatives and the regulatory body concerned shall be invited to the meetings of the Coordination Committee as

Amendment

1. Member States shall ensure that infrastructure managers set up and organise Coordination Committees for each network. Membership of this committee shall be open to the infrastructure manager, known applicants in the sense of Article 8(3) and, upon their request, potential applicants, their representative organisations, representatives of users of the rail freight and passenger transport services and, where relevant, regional and local authorities **including the competent authorities**. Member State representatives and the regulatory body concerned shall be invited to the meetings of the Coordination

observers.

Committee as observers.

Amendment 60

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 – point e

Text proposed by the Commission

(e) the process for allocation of infrastructure capacity, including priority rules for the allocation of capacity between different categories of infrastructure users;

Amendment

(e) the process for allocation of infrastructure capacity, including priority rules for the allocation of capacity between different categories of infrastructure users; ***the principles of coordination in the event of conflicting requests to operate a rail service shall be governed by Article 46(4);***

Amendment 61

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga) issues faced by the users of the rail freight and passenger transport services, including the quality of the service provided, the infrastructure charges, and the level and transparency of the rail service prices.

Amendment 62

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Coordination Committee shall have the power to request relevant information from the infrastructure manager on points (a) to (g) in order to be able to carry out these tasks.

Amendment

The Coordination Committee shall have the power to request relevant information from the infrastructure manager on points (a) to (ga) in order to be able to carry out these tasks, ***without prejudice to commercial confidentiality.***

Amendment 63

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

<>Article 7 d – paragraph 3</>

Text proposed by the Commission

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body concerned and the Commission with an indication of the respective positions taken by the Committee members.

Amendment

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. ***The rules of procedure shall provide inter alia for regular consultation, at least once a year, of the users of the rail freight and passenger transport services and of railway sector workers' representatives.*** A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body concerned, ***users of the rail freight and passenger transport services and the railway sector workers' representatives concerned*** and the Commission with an indication of the respective positions taken by the Committee members.

Amendment 64

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that infrastructure managers participate and cooperate in a network to develop the Union rail infrastructure, in particular to ensure timely and efficient implementation of the trans-European transport network, including the core network corridors, rail freight corridors according to Regulation (EU) No 913/2010¹¹ and the European Rail Traffic Management System (ERTMS) deployment plan laid down in Decision 2012/88/EU¹².

Amendment

1. Member States shall ensure that infrastructure managers participate and cooperate in a network to develop the Union rail infrastructure, ***and*** in particular to ensure:

(i) timely and efficient implementation of the trans-European transport network, including the core network corridors, rail freight corridors according to Regulation (EU) No 913/2010¹¹ and the European Rail Traffic Management System (ERTMS) deployment plan laid down in Decision 2012/88/EU¹² **and**

(ii) the facilitation of efficient and effective cross-border passenger services within the Union, including through cross-border cooperation to overcome bottlenecks.

1a. The network shall also develop common framework principles in respect of charging for cross-border passenger services operating on more than one network as defined in Article 37 and allocation of capacity as provided for in Article 40. Those common principles shall be subject to the opinion of the network of regulatory bodies as referred to in Article 57.

¹¹ OJ L 276, 20.10.2010, p. 22.

¹² OJ L 51, 23.2.2012, p. 51.

¹¹ OJ L 276, 20.10.2010, p. 22.

¹² OJ L 51, 23.2.2012, p. 51.

Amendment 65

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 2

Text proposed by the Commission

2. The Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation, maintenance, renewals, enhancements, investments, **and** financial efficiency.

Amendment

2. The Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency **and effectiveness** of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation, maintenance, renewals, enhancements, investments, financial efficiency **and transparency of the charging framework and charging**

rules.

Amendment 66

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 3

Text proposed by the Commission

3. The Commission **may** adopt measures setting out the common principles and practices of the Network, in particular to ensure consistency in benchmarking, and the procedures to be followed for cooperation in the Network. Those measures shall be adopted by means of **an implementing** act in accordance with the procedure referred to in Article 62(3).

Amendment

3. The Commission, **taking into account the views expressed by the Network, shall** adopt measures setting out the common principles and practices of the Network, in particular to ensure consistency in benchmarking, and the procedures to be followed for cooperation in the Network. Those measures shall be adopted by means of **a delegated** act in accordance with the procedure referred to in Article 60.

Amendment 67

Proposal for a directive

Article 1 – point 5 – point a (new)

Directive 2012/34/EU

Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(aa) the following paragraph 2a is inserted:

'2a. A Member State shall not be required to grant any right of access to infrastructure for the purpose of operating any type of services to a railway undertaking where that undertaking is controlled directly or indirectly by a person or persons from a third country or third countries in which rights of access to infrastructure and service facilities are not granted to Union undertakings on conditions similar to those specified in this Directive. For the purposes of this paragraph, control shall be constituted by rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the

possibility of exercising decisive influence on an undertaking, in particular by:

(a) ownership or the right to use all or part of the assets of the undertaking concerned;

(b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking.';

Amendment 68

Proposal for a directive

Article 1 – point 6 – point a

Directive 2012/34/EU

Article 11 – paragraph 1

Text proposed by the Commission

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.

Amendment

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.
High-speed passenger services shall not be limited in their right of access provided for in Article 10(2).

Competent authorities and infrastructure managers shall give advance notice to all interested parties of capacity requests pursuant to Regulation (EC) No 1370/2007 of the European Parliament and of the Council* that may conflict with the rights of access pursuant to Article 10 of this Directive.

All passenger services that are not part of a public service contract shall be referred to as open access services.

If a competent authority creates a new public service contract, or extends the scope of an existing one, in the sense of using more infrastructure capacity than was previously used, the rights of access of undertakings that provide existing open access services which may be affected by

the decision of the competent authority shall not be subject to any limitations.

** Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1).*

Amendment 69 and 114

Proposal for a directive

Article 1 – point 6 – point b

Directive 2012/34/EU

Article 11 – paragraph 2 – subparagraph 1

Text proposed by the Commission

In order to determine whether the economic equilibrium of a public service contract would be compromised, the relevant regulatory body or bodies referred to in Article 55 shall make an objective economic analysis and base its decision on pre-determined criteria. ***They shall determine this*** after a request from any of the following, submitted within one month from the information on the intended passenger service referred to in Article 38(4):

Amendment

In order to determine whether the economic equilibrium of a public service contract would be compromised, the relevant regulatory body or bodies referred to in Article 55 shall make an objective economic analysis and base its decision on pre-determined criteria.

Those criteria shall cover, inter alia, the impact of the exercise of the right of access on the profitability of any services comprised in the public service contract, including the resulting impacts on the net cost to the competent public authority that awarded the contract, passenger demand, ticket pricing, ticketing arrangements, the location and number of stops and timing and the frequency of the proposed new service, and shall be established by the regulatory body referred to in Article 55 in compliance with the measures provided for in paragraph 4 of this Article. The analysis shall assess whether the viability of the services operated under the public service contract would be compromised by

a new open access service.

The economic equilibrium of the public service contract shall not be deemed to be compromised if the regulatory body predicts that the prospective new service would be mainly revenue-generating rather than revenue-abstracting for the rail sector, and that the revenue loss for the set of services under the public service contract or contracts, if any, would not be substantial. In accordance with such analysis and the decision of the relevant regulatory body, Member States shall be empowered to authorise, modify or deny the right of access for the passenger service sought.

2a. Where a public service contract is awarded through a competitive public tendering procedure in accordance with Union law, Member States may, in accordance with Regulation (EC) No 1370/2007, limit the right of access provided for in Article 10(2) of this Directive for the duration of that public service contract on services between a place of departure and a destination which are covered by that public service contract. The information that the right of access is limited shall be made public when the tendering procedure for that public service contract is launched. Any additional new service within the meaning of Article 10(2) which is predicted by the regulatory body to be mainly revenue-generating rather than revenue-abstracting for the rail sector and in respect of which the revenue loss for the set of services under the public service contract, if any, is predicted not to be substantial shall not be limited in its access.

The limitations referred to in this paragraph shall not have the effect of restricting the right to pick up passengers at any station located along the route of an international service and to set them down at another, including at stations located in the same Member State.

2b. The regulatory body or bodies

- (a) the competent authority or competent authorities that awarded the public service contract;
- (b) any other interested competent authority with the right to limit access under this Article;
- (c) the infrastructure manager;
- (d) the railway undertaking performing the public service contract.

performing the analyses referred to in paragraphs 2 and 2a make its or their determination after a request from any of the following, submitted within one month from *receipt of* the information on the intended passenger service referred to in Article 38(4):

- (a) the competent authority or competent authorities that awarded the public service contract;
- (b) any other interested competent authority with the right to limit access under this Article;
- (c) the infrastructure manager;
- (d) the railway undertaking performing the public service contract;

(da) the railway undertaking that has requested capacity in accordance with Article 38(4).

Amendment 70

Proposal for a directive

Article 1 – point 6 – point c

Directive 2012/34/EU

Article 11 – paragraphs 3 and 4

Text proposed by the Commission

- c) *paragraph 3 is* replaced by the following:
3. The regulatory body shall give the grounds for its decision and the conditions under which a reconsideration of the decision within one month of its notification may be requested by one of the following:.
- (a) the relevant competent authority or competent authorities;
 - (b) the infrastructure manager;
 - (c) the railway undertaking performing the public service contract;
 - (d) the railway undertaking seeking access.’;

In case the regulatory body decides that the economic equilibrium of a public

Amendment

- c) *paragraphs 3 and 4* are replaced by the following:
3. The regulatory body shall give the grounds for its decision and the conditions under which a reconsideration of the decision within one month of its notification may be requested by one of the following:.
- (a) the relevant competent authority or competent authorities;
 - (b) the infrastructure manager;
 - (c) the railway undertaking performing the public service contract;
 - (d) the railway undertaking seeking access.’;

Where the regulatory body decides *in accordance with paragraph 2* that the

contract would be compromised by the intended passenger service referred to in Article 38(4), it shall indicate possible changes to such service which would ensure that the conditions to grant the right of access provided for in Article 10(2) are met.

4. Based on the experience of regulatory bodies, competent authorities and railway undertakings and based on the activities of the network referred to in Article 57(1), the Commission shall adopt by 16 December 2016 measures setting out the details of the procedure and criteria to be followed for the application of paragraphs 1, 2 and 3 of this Article. Those **implementing** acts shall be adopted in accordance with the **examination** procedure referred to in Article 62(3).

economic equilibrium of a public contract would be compromised by the intended passenger service referred to in Article 38(4), it shall indicate possible changes to such service which would ensure that the conditions to grant the right of access provided for in Article 10(2) are met.

4. Based on the experience of regulatory bodies, competent authorities and railway undertakings and based on the activities of the network referred to in Article 57(1), the Commission shall adopt by 16 December 2016 measures setting out the details of the procedure and criteria to be followed for the application of paragraphs 1, 2 and 3 of this Article. Those **delegated** acts shall be adopted in accordance with the procedure referred to in Article 60.

Amendment 71

Proposal for a directive

Article 1 – point 7

Directive 2012/34/EU

Article 13 a – title

Text proposed by the Commission

Common information and **integrated** ticketing schemes

Amendment

Common information and ticketing schemes

Amendment 72

Proposal for a directive

Article 1 – point 7

Directive 2012/34/EU

Article 13 a – paragraph 1

Text proposed by the Commission

1. **Without prejudice to Regulation (EC) No 1371/2007¹³ and Directive 2010/40/EU¹⁴**, Member States may require railway undertakings **operating domestic passenger services** to participate in a common information and integrated ticketing scheme for the supply of tickets, through-tickets and reservations or decide to give the power to **competent** authorities

Amendment

1. **All timetabling data shall be deemed to constitute public data and shall be made available accordingly.**

to establish such a scheme. If such a scheme is established, Member States shall ensure that it does not create market distortion or discriminate between railway undertakings and that it is managed by a public or private legal entity or an association of all **railway** undertakings operating passenger services.

Notwithstanding Regulation (EC) No 1371/2007 and Directive 2010/40/EU, Member States shall require all rail stakeholders such as railway undertakings, infrastructure managers and ticket vendors to use by 12 December 2019 an interoperable through-ticketing and information system that fulfils the objective of enabling passengers to access all data needed to plan a journey and to reserve and buy their tickets within the Union.

Member States shall require railway undertakings to cooperate in setting up, by 12 December 2019, a common travel information and ticketing scheme for the supply of tickets, through-tickets and reservations for all public passenger transport by rail provided under a public service contract pursuant to Regulation (EC) No 1370/2007 or shall decide to empower relevant authorities to set up such a scheme. The scheme shall not create market distortion or discriminate between railway undertakings. It shall be managed by a public or private legal entity or by an association of all railway undertakings operating passenger services.

Railway undertakings operating commercial public passenger services shall have non-discriminatory access to the scheme for the purpose of providing information on, and selling tickets for, public passenger transport by rail as an add-on to their own transport services.

Any system shall be devised in such a way as to be interoperable in accordance with Directive 2008/57/CE and the basic technical specifications on telematic applications. It shall apply those technical

requirements in order to ensure, in particular, consistency in charging and clearing, confidentiality of commercial information, protection of personal data and compliance with competition rules. Any system or application offering additional services to passengers shall be interoperable with those technical specifications.

Member States shall ensure that access to the basic technical specifications on telematic applications is open and non-discriminatory.

Any commercial agreement between participants shall be in conformity with competition rules.

The costs of such a system shall be divided fairly among the participants, in a manner which reflects their respective contributions.

The regulatory body shall ensure that any such through-ticketing system does not create market distortion or discriminate between railway undertakings.

Member States may *also* require railway undertakings *and providers of passenger transport by other modes of transport* to participate in a common *interoperable travel* information and integrated ticketing scheme for the supply of tickets, through-tickets and reservations or decide to give the power to *relevant* authorities to establish such a scheme. If such a scheme is established, Member States shall ensure that it does not create market distortion or discriminate between railway undertakings *and other providers of passenger transport* and that it is managed by a public or private legal entity or an association of all undertakings operating passenger services.

¹³ *OJ L 315, 3.12.2007, p. 14.*

¹⁴ *OJ L 207, 6.8.2010, p. 1.*

Amendment 73

Proposal for a directive

Article 1 – point 7

Directive 2012/34/EU

Article 13 – paragraph 2

Text proposed by the Commission

2. Member States shall ***require railway undertakings operating passenger services to put in place and coordinate*** contingency plans to provide assistance to passengers, in the ***sense of Article 18 of Regulation (EC) No 1371/2007***, in the event of a major disruption to services.

Amendment

2. Member States shall ***set up, and coordinate, including with respect to major routes within the Union, national*** contingency plans to provide assistance to passengers, ***taking account of Commission Decision 2008/164/EC****, in the event of a major disruption to services ***triggered by a natural or man-made disaster. Each railway undertaking operating passenger services and each station manager shall put in place its own contingency plan in accordance with national contingency plans.***

* ***Commission Decision 2008/164/EC of 21 December 2007 on technical specifications for interoperability as regards 'persons of reduced mobility' in the trans-European conventional and high-speed rail system (OJ L 64, 7.3.2008, p. 72).***

Amendment 74

Proposal for a directive

Article 1 – point 7 a (new)

Directive 2012/34/EU

Article 19 – point d a (new)

Text proposed by the Commission

Amendment

7a. In Article 19, the following point is added:

'(da) have undertaken to apply the respective collective agreements of the Member States in which the undertaking wishes to operate.';

Amendment 75

Proposal for a directive

Article 1 – point 8 a (new)

Directive 2012/34/EU

Article 42 – paragraph 1a (new)

Text proposed by the Commission

Amendment

8a. In Article 42, the following paragraph 1a is inserted:

'1a. With a view to preventing discrimination against applicants, the regulatory body referred to in Article 55 of this Directive shall give prior approval to such a framework agreement and shall oversee a framework agreement in force on its own initiative. An applicant shall have the right to appeal to the regulatory body if it believes that it has been unfairly treated or discriminated against, or if it is in any other way aggrieved by a framework agreement. In the event of an appeal against a framework agreement, the regulatory body shall either confirm that no modification of the framework agreement is required or shall require modification of that framework agreement in accordance with directions specified by the regulatory body, not later than two months after the appeal is received by the regulatory body. The infrastructure manager and the railway undertaking shall comply with the regulatory body's decision as soon as is materially feasible, and in any case not later than one month after receiving notification of that decision from the regulatory body. Whilst performing the functions described in this paragraph, the regulatory body shall pay particular attention to the protection of business secrets.

Amendment 76

Proposal for a directive

Article 1 – point 8 b (new)

Directive 2012/34

Article 46 – paragraph 4

8b. In Article 46, paragraph 4 is replaced by the following:

'4. The principles governing the coordination process shall be set out in the network statement. These shall, in particular, reflect the difficulty of arranging international train paths and the effect that modification may have on other infrastructure managers. *In the event of conflicting requests to operate a rail service in the same market segment, the infrastructure manager, when allocating capacity, shall take into consideration only the infrastructure disputed and not the overall volume of capacity requested by the competing applicants.*';

Amendment 77

Proposal for a directive
Article 1 – point 8 c (new)
Directive 2012/34/EU
Article 54 – paragraph 1

8c. In Article 54, paragraph 1 is replaced by the following:

'1. In the event of disturbance to train movements caused by technical failure or accident, the infrastructure manager shall take all necessary steps to restore the situation to normal. To that end, it shall draw up a contingency plan listing the various bodies to be informed in the event of serious incidents or serious disturbance to train movements. *In the event of disturbance which has a potential impact on cross-border traffic, the infrastructure manager shall share any relevant information with other infrastructure managers whose network and traffic may be affected by that disturbance. The infrastructure managers concerned shall cooperate to restore the cross-border traffic to normal.*

Amendment 78

Proposal for a directive

Article 1 – point 8 d (new)

Directive 2012/34/EU

Article 55 – paragraph 3a (new)

Text proposed by the Commission

Amendment

8d. In Article 55, the following paragraph is added:

'3a. Member States shall ensure that the regulatory bodies have the necessary organisational and operational resources referred to in Article 56 of this Directive and shall, where necessary, adopt an action plan for the purpose of providing them with those resources.';

Amendment 79

Proposal for a directive

Article 1 – point 8 e (new)

Directive 2012/34/EU

Article 56

Present text

Amendment

8e. Article 56 is amended as follows:

Functions of the regulatory body

1. Without prejudice to Article 46(6), an applicant shall have the right to appeal to the regulatory body if it believes that it has been unfairly treated, discriminated against or is in any other way aggrieved, and in particular against decisions adopted by the infrastructure manager or where appropriate the railway undertaking or the operator of a service facility concerning:

- (a) the network statement in its provisional and final versions;
- (b) the criteria set out in it;
- (c) the allocation process and its result;
- (d) the charging scheme;
- (e) the level or structure of infrastructure charges which it is, or may be, required to pay;

Functions of the regulatory body

1. Without prejudice to Article 46(6), an applicant shall have the right to appeal to the regulatory body if it believes that it has been unfairly treated, discriminated against or is in any other way aggrieved, and in particular against decisions adopted by the infrastructure manager or where appropriate the railway undertaking or the operator of a service facility concerning:

- (a) the network statement in its provisional and final versions;
- (b) the criteria set out in it;
- (c) the allocation process and its result;
- (d) the charging scheme;
- (e) the level or structure of infrastructure charges which it is, or may be, required to pay;

(f) arrangements for access in accordance with Articles 10 to 13;

(g) access to and charging for services in accordance with Article 13.

2. Without prejudice to the powers of the national competition authorities for securing competition in the rail services markets, the regulatory body shall have the power to monitor the competitive situation in the rail services markets and shall, in particular, control points (a) to (g) of paragraph 1 on its own initiative and with a view to preventing discrimination against applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate against applicants.

3. The regulatory body shall also cooperate closely with the national safety authority within the meaning of Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community [19], and the licensing authority within the meaning of this Directive.

Member States shall ensure that these authorities jointly develop a framework for information-sharing and cooperation aimed at preventing adverse effects on competition or safety in the railway market. This framework shall include a mechanism for the regulatory body to provide the national safety and licensing authorities with recommendations on issues that may affect competition in the railway market and for the national safety authority to provide the regulatory body and licensing authority with recommendations on issues that may affect safety. Without prejudice to the independence of each authority within the field of their respective competences, the relevant authority shall examine any such recommendation before adopting its

(f) arrangements for access in accordance with Articles 10 to 13;

(g) access to and charging for services in accordance with Article 13;

(ga) scheduled and unscheduled infrastructure maintenance work.

2. Without prejudice to the powers of the national competition authorities for securing competition in the rail services markets, the regulatory body shall have the power to monitor the competitive situation in the rail services markets and shall, in particular, control points (a) to (ga) of paragraph 1 on its own initiative and with a view to preventing discrimination against applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate against applicants.

3. The regulatory body shall also cooperate closely with the national safety authority within the meaning of Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community [19], and the licensing authority within the meaning of this Directive.

Member States shall ensure that these authorities jointly develop a framework for information-sharing and cooperation aimed at preventing adverse effects on competition or safety in the railway market. This framework shall include a mechanism for the regulatory body to provide the national safety and licensing authorities with recommendations on issues that may affect competition in the railway market and for the national safety authority to provide the regulatory body and licensing authority with recommendations on issues that may affect safety. Without prejudice to the independence of each authority within the field of their respective competences, the relevant authority shall examine any such recommendation before adopting its

decisions. If the relevant authority decides to deviate from these recommendations, it shall give reasons in its decisions.

4. Member States may decide that the regulatory body is given the task to adopt non-binding opinions on the provisional versions of the business plan referred to in Article 8(3), the contractual agreement and the capacity-enhancement plan to indicate in particular whether these instruments are consistent with the competitive situation in the rail services markets.

5. The regulatory body shall have the necessary organisational capacity in terms of human and material resources, which shall be proportionate to the importance of the rail sector in the Member State.

6. The regulatory body shall ensure that charges set by the infrastructure manager comply with Section 2 of Chapter IV and are non-discriminatory. Negotiations between applicants and an infrastructure manager concerning the level of infrastructure charges shall only be permitted if these are carried out under the supervision of the regulatory body. The regulatory body shall intervene if negotiations are likely to contravene the requirements of this Chapter.

7. The regulatory body shall, regularly and, in any case, at least every two years,

decisions. If the relevant authority decides to deviate from these recommendations, it shall give reasons in its decisions.

4. Member States may decide that the regulatory body is given the task to adopt non-binding opinions on the provisional versions of the business plan referred to in Article 8(3), the contractual agreement and the capacity-enhancement plan to indicate in particular whether these instruments are consistent with the competitive situation in the rail services markets.

5. The regulatory body shall have the necessary organisational capacity in terms of human and material resources, which shall be proportionate to the importance of the rail sector in the Member State.

6. The regulatory body shall ensure that charges set by the infrastructure manager comply with Section 2 of Chapter IV and are non-discriminatory. ***The regulatory body shall ensure that the access charges set by the infrastructure manager, operators of service facilities or railway undertakings – including for access to tracks and access to stations, their buildings and other facilities, including facilities for the display of travel information – are not discriminatory. In that connection, proposed changes to the level or structure of the charges referred to in this paragraph shall be notified to the regulatory body at the latest two months prior to their scheduled entry into force. Until one month prior to their entry into force, the regulatory body may insist on a reduction or an increase in the proposed changes, on their postponement or on their cancellation.*** Negotiations between applicants and an infrastructure manager concerning the level of infrastructure charges shall only be permitted if these are carried out under the supervision of the regulatory body. The regulatory body shall intervene if negotiations are likely to contravene the requirements of this Chapter.

7. The regulatory body shall, regularly and, in any case, at least every two years,

consult representatives of users of the rail freight and passenger transport services, to take into account their views on the rail market.

8. The regulatory body shall have the power to request relevant information from the infrastructure manager, applicants and any third party involved within the Member State concerned.

Information requested shall be supplied within a reasonable period set by the regulatory body that shall not exceed one month, unless, in exceptional circumstances, the regulatory body agrees to, and authorises, a time-limited extension, which shall not exceed two additional weeks. The regulatory body shall be able to enforce such requests with appropriate penalties, including fines. Information to be supplied to the regulatory body includes all data which the regulatory body requires in the framework of its appeal function and in its function of monitoring the competition in the rail services markets in accordance with paragraph 2. This includes data which are necessary for statistical and market observation purposes.

9. The regulatory body shall consider any complaints and, as appropriate, shall ask for relevant information and initiate consultations with all relevant parties, within one month from the receipt of the complaint. It shall decide on any complaints, take action to remedy the situation and inform the relevant parties of its reasoned decision within a pre-determined, reasonable time, and, in any case, within six weeks from receipt of all relevant information. Without prejudice to the powers of the national competition authorities for securing competition in the rail service markets, the regulatory body shall, where appropriate, decide on its own initiative on appropriate measures to correct discrimination against applicants, market distortion and any other undesirable developments in these markets, in particular with reference to points (a) to (g)

consult representatives of users of the rail freight and passenger transport services, to take into account their views on the rail market.

8. The regulatory body shall have the power to request relevant information from the infrastructure manager, applicants and any third party involved within the Member State concerned.

Information requested shall be supplied within a reasonable period set by the regulatory body that shall not exceed one month, unless, in exceptional circumstances, the regulatory body agrees to, and authorises, a time-limited extension, which shall not exceed two additional weeks. The regulatory body shall be able to enforce such requests with appropriate penalties, including fines. Information to be supplied to the regulatory body includes all data which the regulatory body requires in the framework of its appeal function and in its function of monitoring the competition in the rail services markets in accordance with paragraph 2. This includes data which are necessary for statistical and market observation purposes.

9. The regulatory body shall consider any complaints and, as appropriate, shall ask for relevant information and initiate consultations with all relevant parties, within one month from the receipt of the complaint. It shall decide on any complaints, take action to remedy the situation and inform the relevant parties of its reasoned decision within a pre-determined, reasonable time, and, in any case, within six weeks from receipt of all relevant information. Without prejudice to the powers of the national competition authorities for securing competition in the rail service markets, the regulatory body shall, where appropriate, decide on its own initiative on appropriate measures to correct discrimination against applicants, market distortion and any other undesirable developments in these markets, in particular with reference to points (a) to

of paragraph 1.

A decision of the regulatory body shall be binding on all parties covered by that decision, and shall not be subject to the control of another administrative instance. The regulatory body shall be able to enforce its decisions with the appropriate penalties, including fines.

In the event of *an appeal* against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the regulatory body shall either confirm that no modification of the infrastructure manager's decision is required, or it shall require modification of that decision in accordance with *directions specified by the regulatory body*.

10. Member States shall ensure that decisions taken by the regulatory body are subject to judicial review. The appeal may have suspensive effect on the decision of the regulatory body only when the immediate effect of the regulatory body's decision may cause irretrievable or manifestly excessive damages for the appellant. This provision is without prejudice to the powers of the court hearing the appeal as conferred by constitutional law, where applicable.

11. Member States shall ensure that decisions taken by the regulatory body are published.

12. The regulatory body shall have the power to carry out audits or initiate external audits with infrastructure managers, operators of service facilities and, where relevant, railway undertakings, to verify compliance with accounting separation provisions laid down in Article 6. In this respect, the regulatory body shall be entitled to request any relevant information. In particular the regulatory body shall have the power to request infrastructure manager, operators of service facilities and all undertakings or other entities performing or integrating different

(*ga*) of paragraph 1.

A decision of the regulatory body shall be binding on all parties covered by that decision, and shall not be subject to the control of another administrative instance. The regulatory body shall be able to enforce its decisions with the appropriate penalties, including fines.

In the event of *a complaint* against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the regulatory body shall either confirm that no modification of the infrastructure manager's decision is required, or it shall require modification of that decision in accordance with *its instructions. The infrastructure manager shall comply with the decision of the regulatory body at the latest one month after receiving notification of that decision*.

10. Member States shall ensure that decisions taken by the regulatory body are subject to judicial review. The appeal may have suspensive effect on the decision of the regulatory body only when the immediate effect of the regulatory body's decision may cause irretrievable or manifestly excessive damages for the appellant. This provision is without prejudice to the powers of the court hearing the appeal as conferred by constitutional law, where applicable.

11. Member States shall ensure that decisions taken by the regulatory body are published.

12. The regulatory body shall have the power to carry out audits or initiate external audits with infrastructure managers, operators of service facilities and, where relevant, railway undertakings, to verify compliance with accounting separation provisions laid down in Article 6. In this respect, the regulatory body shall be entitled to request any relevant information. In particular the regulatory body shall have the power to request infrastructure manager, operators of service facilities and all undertakings or other entities performing or integrating different

types of rail transport or infrastructure management as referred to in Article 6(1) and (2) and Article 13 to provide all or part of the accounting information listed in Annex VIII with a sufficient level of detail as deemed necessary and proportionate.

Without prejudice to the powers of the national authorities responsible for State aid issues, the regulatory body may also draw conclusions from the accounts concerning State aid issues which it shall report to those authorities.

13. The Commission shall be empowered to adopt delegated acts in accordance with Article 60 concerning certain amendments to Annex VIII. Thus, Annex VIII may be amended to adapt it to the evolution of accounting and control practices and/or to supplement it with additional elements necessary to verify separation of accounts.

types of rail transport or infrastructure management as referred to in Article 6(1) and (2) and Article 13 to provide all or part of the accounting information listed in Annex VIII with a sufficient level of detail as deemed necessary and proportionate.

Without prejudice to the powers of the national authorities responsible for State aid issues, the regulatory body may also draw conclusions from the accounts concerning State aid issues which it shall report to those authorities.

13. The Commission shall be empowered to adopt delegated acts in accordance with Article 60 concerning certain amendments to Annex VIII. Thus, Annex VIII may be amended to adapt it to the evolution of accounting and control practices and/or to supplement it with additional elements necessary to verify separation of accounts.

Amendment 80

Proposal for a directive

Article 1 – point 8 f (new)

Directive 2012/34/EU

Article 57 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

8f. In Article 57 the following paragraph is added:

'9a. Where an applicant considers that a decision of an infrastructure manager is obstructing the development of an international service, it may refer the matter to the network of regulatory bodies for an opinion. The national regulatory body concerned shall be informed of that referral at the same time. The network shall, where necessary, seek explanations from the infrastructure manager and, in any case, from the national regulatory body concerned. The network shall adopt and publish its opinion and communicate it to the national regulatory body concerned.

The network of regulatory bodies shall submit an annual activity report to the

Commission. The Commission shall report to the European Parliament and Council.

Within one year from the entry into force of this Directive and by no later than 31 December 2019, the Commission shall adopt a legislative proposal establishing a European regulatory body and shall confer on it legal personality together with a supervisory and arbitration function empowering it to deal with cross-border issues and to hear appeals against decisions taken by national regulatory bodies. That new body shall replace the European Network of Regulatory Bodies.'

Amendment 81

Proposal for a directive

Article 1 – point 9

Directive 2012/34/EU

Article 63 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. By 31 December 2024, the Commission shall evaluate the impact of this Directive on the rail sector and shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on its implementation.

Amendment

1. By 31 December 2024, the Commission shall evaluate the impact of this Directive on the rail sector and shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on its implementation. ***That evaluation shall take into account the views expressed by the European regulatory body on whether discriminatory practices or other types of distortion of competition persist and the views expressed by social partners in the relevant Union social dialogue committee.***

Amendment 82

Proposal for a directive

Article 1 – point 9

Directive 2012/34/EU

Article 63 – paragraph 1 – subparagraph 2

Text proposed by the Commission

By the same date, the **Commission** shall assess whether discriminatory practices or other types of distortion of competition persist ***in relation to infrastructure managers which are part of a vertically integrated undertaking***. The Commission shall, if appropriate, propose new legislative measures.

Amendment

By the same date, the **European Regulatory Body** shall assess whether discriminatory practices or other types of distortion of competition persist ***and shall publish recommendations for further policy measures***. The Commission shall, if appropriate, propose new legislative measures ***based on those recommendations***.

Amendment 83

Proposal for a directive

Article 1 – point 9 a (new)

Directive 2012/34/EU

Article 63 – paragraph 1– subparagraph 2 a (new)

Text proposed by the Commission

Amendment

9a. In Article 63(1), the following subparagraph is added:

'The Commission shall, no later than 18 months after the entry into force of this Directive, assess its impact on the development of the labour market for railway on-board staff and shall, if appropriate, propose new legislative measures on the certification of such on-board railway staff.'

Amendment 84

Proposal for a directive

Article 1 a (new)

Regulation (EC) 1371/2007

Article 2 – paragraph 3

Text proposed by the Commission

Amendment

Article 1a

Regulation (EC) 1371/2007 is amended as follows:

Article 2, paragraph 3 is replaced by the following:

'3. On the entry into force of this Regulation, Articles 9, 10, 11, 12, 19,

20(1) and 26 shall apply to all rail passenger services throughout the Union.'

Amendment 85

Proposal for a directive

Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union.

Amendment

1. This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union. ***It shall be made available in consolidated form, together with Directive 2012/34/EU as amended by it, within three months of its publication.***

Amendment 86

Proposal for a directive

Article 3 – paragraph 2

Text proposed by the Commission

2. Points 5 to 8 of Article 1 shall apply from 1 January 2018 [in time for the working timetable starting on 14 December 2019].

Amendment

2. Points 5 to 8 of Article 1 shall apply from 1 January 2018 [in time for the working timetable starting on 14 December 2019].

Until the date of application of point 5 and without prejudice to international passenger services, Member States shall not be required to grant the right of access to railway undertakings and their directly or indirectly controlled subsidiaries, licensed in a Member State where access rights of a similar nature are not granted.