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from: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 31 January 2013

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
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Subject: 4th RAILWAY PACKAGE  
COMMISSION STAFF WORKING DOCUMENT  
IMPACT ASSESSMENT  
Accompanying the documents  
Proposal for a Regulation of the European Parliament and of the Council  
amending Regulation (EC) No 1370/2007 concerning the opening of the  
market for domestic passenger transport services by rail

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

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Delegations will find attached Commission document SWD(2013) 10 final (PART 2).

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Brussels, 30.1.2013  
SWD(2013) 10 final

Part 2

## COMMISSION STAFF WORKING DOCUMENT

### IMPACT ASSESSMENT

#### *Accompanying the documents*

**Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail**

**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**

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{SWD(2013) 12 final}

{SWD(2013) 13 final}

# COMMISSION STAFF WORKING DOCUMENT

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Disclaimer: This impact assessment commits only the Commission's services involved in its preparation and does not prejudge the final form of any decision to be taken by the Commission

# ANNEX 1

## THE FOURTH RAILWAY PACKAGE – THE 'BIG PICTURE'

*Caveat: The content of this Annex will be further refined and updated as the policy preparation processes for the different initiatives within the Fourth Package progress*

### 1. INTRODUCTION

In its White Paper "Roadmap to a Single European Transport Area - Towards a competitive and resource efficient transport system" adopted on 28 March 2011 ('2011 White Paper'), the Commission unveiled its vision to establish a genuine Single European Transport Area and it clarified that this objective implies creating the true Single European railway Area. A crucial condition to meet this goal is the removal of all obstacles of administrative, technical or regulatory nature still holding back the rail sector. As announced in the 2011 White Paper, the Commission has prepared a set of proposals, to be adopted sequentially within the Fourth Railway Package.

Additionally, the European Council conclusions of January 2012 highlight the importance of releasing the growth-creating potential of a fully integrated Single Market, including as regards network industries.<sup>1</sup> More precisely, the Commission Communication on Action for Stability, Growth and Jobs adopted on 30 May 2012<sup>2</sup> stresses the importance of reducing further the regulatory burden and barriers to entry in the rail sector, making therefore country specific recommendations in that direction. In the same vein, the Commission adopted on 6 June 2012 the Communication on strengthening the governance of the single market, which stresses the importance of the transport sector with a special attention to rail.<sup>3</sup>

This Annex gives a brief background of the development of EU railway *acquis* and clarifies the necessity and objectives of the Fourth Railway Package within this context. It presents all the elements included in the Package (a chapeau communication and seven legislative proposals accompanied by three impact assessments) and explains how different pieces fit together.<sup>4</sup>

### 2. DEVELOPMENT OF EU RAILWAYS *ACQUIS*

In the past decade, the European legislator has considerably developed the EU *acquis* encouraging *competitiveness* and *market opening*. The overarching idea has been that greater competition makes for a more efficient and customer-responsive industry. In parallel measures have been taken to improve the *interoperability* and *safety* of national networks; and encourage the development of well integrated rail system leading to 'European', rather than 'national', railways.

Rail legislation in the early nineties introduced some limited degree of market opening and prompted the railways to improve efficiency by introducing management independence of railway undertakings from the state and separation of accounts between infrastructure management and

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<sup>1</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/127599.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/127599.pdf)

<sup>2</sup> COM (2012) 299 final.

<sup>3</sup> COM(2012) 259 final

<sup>4</sup> The intention is to add this (identical) background Annex to each of the 3 rail package IAs.

transport operations. Since 2000, however, the European Commission has put forward further initiatives in the shape of packages of legislative measures.

**The First Railway Package**, adopted in 2001, was designed to:

- open the international rail freight market,
- establish a general framework for the development of European railways, and clarify the relationship between (a) the state and the infrastructure manager; (b) the state and railway undertakings and (c) the infrastructure manager and railway undertakings (Directive 2001/12/EC);
- set out the conditions that freight operators must meet in order to be granted a licence to operate services on the European rail network (Directive 2001/13/EC); and
- define policy for capacity allocation and infrastructure charging (Directive 2001/14/EC).

**The Second Railway Package** was adopted in 2004. Its aim was to determine:

- a common approach to rail safety (Directive 2004/49/EC)
- requirements for interoperability of the European high speed and conventional rail systems (Directive 2004/50/EC)
- the opening of national and international rail freight markets on the entire European network (Directive 2004/51/EC)
- the establishment of the European Railway Agency (Regulation (EC) 881/2004, amended by Regulation 1335/2008).

**The Third Railway Package** was adopted in 2007, to open up international passenger services to competition. The objective of the package was:

- opening the market for international passenger services to competition (Directive 2007/58/EC)
- setting the conditions and procedures for the certification of train crews operating locomotives and trains (Directive 2007/59/EC); and
- ensuring basic rights for rail passengers (Regulation 1371/2007), for example, with regard to insurance, ticketing, and for passengers with reduced mobility.

**The Recast of the First Railway Package** was proposed by the Commission in 2010. Following a final vote of approval in the European Parliament on 3 July 2012, the new EU rules should come into force by the end of 2012. The recast aims to simplify and consolidate the rules by merging three directives and their amendments into a single text. Importantly, the Recast also seeks to clarify existing provisions and tackle key problem areas which have been identified in the market over the last ten years. In particular, the new legislation will strengthen the power of national regulators, improve the framework for investment in rail, and ensure fairer access to rail infrastructure and rail related services.

### 3. DEVELOPMENTS IN EU RAIL MARKET

Despite the considerable development of the EU *acquis* and rail markets, the modal share of passenger rail in intra-EU transport has in average remained more or less constant since 2000, at around 6%. The latest Euro-barometer survey suggests that only 6% of Europeans uses the train at least once per week.<sup>5</sup> It should be noted that there are marked differences between Member States, but in overall rail loses out in terms of modal share compared to other modes, reflecting a (real or perceived) low level of efficiency, service levels and quality compared to other transport modes. In the Consumer Scoreboard 2011<sup>6</sup>, train services score worst of all transport services and four in ten consumers consider the choices in that service category to be inadequate.

#### *Improvements will be necessary in all rail segments*

As demonstrated by the EVERIS study<sup>7</sup>, to improve the overall modal split in favour of rail, improvement will be necessary in all rail segments, including conventional long-distance and urban train services.

The 6% modal share for rail in the EU has remained fairly stable in spite of the impressive development of **high-speed train networks**. The latter have managed to gain some markets at the expense of air transport services, but at the same time air transport has maintained important flows of passenger traffic on routes competing with rail<sup>8</sup>.

Since the mid-nineties, **local and regional passenger train services** in most Member States that did not open up their market have fallen in a downward spiral of continuous operational losses and subsequent reduced service offer. This decline has been exacerbated in the EU12 Member States by the decay of old infrastructure and rolling stock on the one hand, and wealth driven high-growth of car ownership, on the other hand.

Although **commuter transport** around urban agglomerations experiences growth in some Member States, cars still secure an important share of urban transport – 59% of Europeans never use suburban trains. This situation contrasts with the 75% urbanisation rate of the EU27 and therefore indicates a huge market development potential for suburban and regional passenger rail transport, especially given the raising congestions on roads.

The **rail freight markets** within the EU have been opened for a number of years, and the industry's stagnation cannot therefore be simply explained by the existence of legal barriers of the kind that continue to restrict competition in domestic passenger services. The problem to be addressed therefore also needs to be defined in terms of technical, physical capacity and institutional barriers, which have frustrated action to open markets taken at the EU level.

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<sup>5</sup> [http://ec.europa.eu/public\\_opinion/flash/fl\\_326\\_en.pdf](http://ec.europa.eu/public_opinion/flash/fl_326_en.pdf)

<sup>6</sup> [http://ec.europa.eu/consumers/consumer\\_research/cms\\_en.htm](http://ec.europa.eu/consumers/consumer_research/cms_en.htm)

<sup>7</sup> [http://ec.europa.eu/transport/rail/studies/doc/2010\\_09\\_09\\_study\\_on\\_regulatory\\_options\\_on\\_further\\_market\\_opening\\_in\\_rail\\_passenger\\_transport.pdf](http://ec.europa.eu/transport/rail/studies/doc/2010_09_09_study_on_regulatory_options_on_further_market_opening_in_rail_passenger_transport.pdf)

<sup>8</sup> 27 out of the 40 largest intra-EU air routes in the EU were within the reach of competing long-distance (high-speed) railway services and yet attracted some 50 million passengers a year - i.e. as much as the 4th largest EU airport, Madrid-Barajas.

#### 4. WHAT ARE THE PROBLEMS NECESSITATING ANOTHER RAIL PACKAGE?

According to available studies, the modest development of the rail sector, as explained above, can be attributed to the presence of several administrative, technical, institutional and legal obstacles, which still hamper market access and operational efficiency of service providers.

##### *Domestic passenger market opening*

Whereas markets for rail freight services have been fully opened to competition since January 2007<sup>9</sup> and those for international passenger transport services as of 1 January 2010<sup>10</sup>, national domestic passenger markets remain largely closed<sup>11</sup>. However, by removing the legal barrier by allowing open access to infrastructure for domestic passenger services, would have rather limited effects given that major part of the domestic rail market is covered by public service contracts (PSC). The rules on the provision of transport services under public service obligations (PSO) are laid down in Regulation 1370/2007<sup>12</sup> which gives the possibility to competent authorities to exclude rail transport services from the obligation to award PSCs through an open tendering procedure. This means that most local and regional services, and certain long-distance services, are operated under PSO and attributed to operators through direct award. In addition, the actual impact of market opening depends on the specific requirements imposed for and within PSCs, making the call either attractive or disguisedly non-attractive for new entrants in tendering procedures (e.g. with the aim to protect the incumbent railway undertaking).

##### *Infrastructure governance*

The First Railway Package established a distinction between infrastructure managers (IM), who run the network, and railway undertakings (RUs), that use it for transporting passengers or goods. The legislation requires that infrastructure charging and capacity allocation, being key factors in opening up the market, must be performed independently of the incumbent RU so as to ensure fair and non-discriminatory access of all operators to infrastructure. Independence of essential functions of infrastructure management has to be ensured in legal, organisational and decision-making terms as to allow for all railway undertakings an equal access to infrastructure and related services. Member States must also have independent regulatory bodies in place to monitor railway markets and to act as an appeal body for rail companies if they believe they have been unfairly treated.

There are, however, problems with the transposition and enforcement of these requirements and the Commission has initiated several infringement procedures, on which it expects the Court of Justice of the EU to express its view by the spring 2013. The interactions between railway undertakings and infrastructure managers, where these independence rules have not been implemented, have created conflicts of interest still resulting in access barriers and market distortions at the expense of new entrants, such as access denials to infrastructure and discriminatory charges.

However, even where the existing legislation has been respected, there remain certain problems related to the use of infrastructure and related services. Partially these issues are expected to be solved through the more precise provisions provided in the Recast of the First Package, especially

<sup>9</sup> Directive 2004/51/EC, amending Council Directive 91/440/EEC.

<sup>10</sup> Council Directive 91/440/EEC, as amended *inter alia* by Directive 2007/58/EC.

<sup>11</sup> Some Member States, such as United Kingdom, Germany, Sweden or Italy, have unilaterally opened their domestic markets.

<sup>12</sup> 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

through the strengthened role of rail regulators. However, certain issues appear to require further legislative intervention. For instance, according to the structure and economics of the railway sector, it could be necessary for the purpose of efficient infrastructure management to keep certain IM functions together, rather than allowing them to be performed by separate (though independent) bodies (e.g. it could be useful to couple traffic management with planning of maintenance works). Furthermore, today the independence requirements apply only to the essential functions (infrastructure charging and capacity allocation), but it might be necessary to extend these requirements also to certain other activities of the IM crucial for competition, such as infrastructure investments planning, financing and maintenance. The optimal governance structure has also led to reflections on the degree of institutional separation between infrastructure management and service provision.

### *Interoperability and safety*

Specific EU legislation exists to promote interoperability in order to overcome national historic differences in the field of technical specifications for infrastructure (gauge widths, electrification standards and safety and signalling systems<sup>13</sup>). EU legislation also sets the framework for a harmonised approach to rail safety in the EU<sup>14</sup>. Furthermore, it obliges the Member States to set up the system of national authorities, consisting of national safety authorities, notified bodies, national investigation bodies and regulatory bodies.

The European Railway Agency (ERA)<sup>15</sup>, established by the Second Railway Package, plays a central role in promoting interoperability, harmonising technical standards, and developing common approach to safety, all requiring close interaction with the Member States and rail sector stakeholders.

While the level of safety on EU railways has gradually increased, and therefore safety levels as such are not an issue, stakeholders have drawn the Commission's attention to the fact that certain technical and administrative hurdles still persist, creating excessive administrative costs and market access barriers, especially for new entrants. This suggests that the highly decentralised system of railway authorities in place may not have fully coped with the European dimension of the rail services. Firstly, existence of largely non-transparent national technical and safety rules, which overlap and/or are in conflict with the EU legislation, creates unnecessary complexities for RUs. Secondly, there are marked discrepancies in how the national safety authorities (NSAs) conduct vehicle authorisation and safety certifications processes, some NSAs being less efficient and effective than others. This has led to reflections on how to further enhance the role of the ERA in the integration processes.

## **5. RATIONALE OF THE FOURTH RAILWAY PACKAGE**

The main objective of the Fourth Railway Package is to enhance the quality and efficiency of rail services by removing remaining legal, institutional and technical obstacles, fostering the

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<sup>13</sup> 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 (Recast)

<sup>14</sup> Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways (Railway Safety Directive).

<sup>15</sup> Regulation (EC) No 1335/2008 of the European Parliament and of the Council of 16 December 2008 amending Regulation (EC) No 881/2004 establishing a European Railway Agency (Agency Regulation)



performance of the railway sector and its competitiveness. As announced by the 2011 White Paper, these issues will be addressed by the different initiatives in three main domains:

- **Domestic passenger market opening** – opening domestic rail passenger market to competition, including open access lines as well as the routes under PSOs;
- **Infrastructure governance** - ensuring that the infrastructure manager performs a consistent set of functions that optimises the use of infrastructure capacity, and its organisation guarantees non-discriminatory access to the infrastructure and rail related services.
- **Interoperability and safety** - removing remaining administrative and technical barriers, in particular by establishing a common approach to safety and interoperability rules to decrease administrative costs, to accelerate procedures, to increase economies of scale for RUs and to avoid disguised discrimination.

*What about infrastructure?*

Obviously, to contribute to the growth of the modal share of rail, new rail infrastructures need to be built across Europe. The 2011 White Paper calls for completing the European high-speed rail network by 2050, so that it would be fully connected to airports enabling the majority of medium-distance passenger transport to be performed by rail. Future EU strategy for infrastructure development has been already set out in the Commission proposals for Connecting Europe Facility<sup>16</sup> and the new TEN-T Guidelines<sup>17</sup> and therefore remains out of the scope of the Fourth Package.

## 6. CONTENT OF THE FOURTH RAILWAY PACKAGE

The package consists of following elements in the three domains:

*Domestic passenger market opening:* amendments to:

- Council Directive 91/440/EEC on the development of the Community's railways/the Recast of the first railway package
- 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

The initiatives will be accompanied by the *Access to Domestic Passenger Rail Markets*.

*Infrastructure governance:* amendments to:

- Council Directive 91/440/EEC on the development of the Community's railways as amended and Directive 2001/14/EC on the allocation of railway infrastructure capacity and

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<sup>16</sup> Proposal for a Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility, COM(2011) 665 final – 2011/0302 (COD)

<sup>17</sup> Proposal for a Regulation of the European Parliament and of the Council on union guidelines for the development of the Trans-European Transport network, COM/2011/0650 final/2 - 2011/0294 (COD).

the levying of charges for the use of railway infrastructure/the Recast of the first railway package

The initiatives will be accompanied by the *IA on the Governance of Railway Infrastructure in the Single European Railway Area*.

*Interoperability and safety*: amendments to:

- Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways
- 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
- Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency

The initiatives will be accompanied by *the IA on improving interoperability of the Single European Railway Area*.

In addition the Fourth Package contains:

- a chapeau Communication, providing overall context and justifications for the package of proposals;
- an ancillary initiative repealing Regulation (EEC) 1192/69 on common rules for the normalisation of the accounts of railway undertakings, which has become obsolete and is inconsistent with EU law in force today.

## 7. OBJECTIVES OF THE FOURTH RAILWAY PACKAGE

The analysis conducted by the Commission shows, that the operational inefficiencies and quality issues of rail services are mainly caused by low degree of competition, remaining market distortions and suboptimal structure of EU rail market. Underlying reasons – long and costly procedures, access barriers for new entrants and different market access rules in Member States – will be addressed from different angles by all the Fourth Package initiatives.

Given that, the initiatives in the Fourth Package are complementary, they all contribute to the same general objective of improving the competitiveness of rail sector vis-à-vis other modes. In addition, some specific objectives are also similar of the initiatives, e.g. facilitating entrance of new operators into the market. The operational objectives are unique for each domain of action. The table below demonstrates how the different elements fit together.

*Figure I-2: Summary table of the objectives of the Fourth Railway package initiatives.*

	Domestic passenger market opening	Infrastructure governance	Interoperability and safety
General			

<b>objective</b>	Improve the quality of rail passenger services and enhance its operational efficiency ...	Strengthen further the governance of railway infrastructure	Eliminate existing administrative and technical barriers ...
	... thereby enhancing the competitiveness of rail sector vis-à-vis other modes and developing further the Single European Rail Area.		
Specific objectives	<b>SO1:</b> Intensify competitive pressure on domestic rail markets	<b>SO1:</b> Improve the IM ability to manage efficiently the infrastructure to the benefit of the users	<b>SO1:</b> Facilitate entrance of new operators into market
	<b>SO2:</b> Create more uniform business conditions	<b>SO2:</b> Eliminate conflict of interest and discrimination in decisions and operations of the IMs	<b>SO2:</b> Reduce administrative costs of railway undertakings
	<b>SO3:</b> Better value for public money spent on public transport services		

## 8. OPTIONS AND MAIN IMPACTS

To achieve these objectives, all IAs will consider a range of different options, which ultimately should improve the operational efficiency and quality of rail services.

**The IA for the domestic passenger market opening** would propose and assess options on how the interaction of access conditions between open access services and services under PSC should be arranged. The IA would also discuss different criteria for the design of PSC and analyse a possibility of introducing mandatory competitive tendering for PSC. The aim of these options would be to open the domestic rail market to competition, which should lead more passenger friendly services and better use of public money. In order to enhance the positive effects of market opening, the IA would analyse also additional options for 'framework conditions', such as access to rolling stock, through-ticketing and inter-availability of train tickets of different RUs.

**The IA for the infrastructure governance initiative would study** two dimensions of options: on the one hand, what functions should be included in the portfolio of an 'ideal IM' in order to optimise its operational and in investment decisions, and on the other hand, how should the separation between the IM and RUs to be enhanced in order to ensure equal level playing field for the access to infrastructure and the related services. As a result, new-entrant RUs should get a better access to infrastructure and related services, at the same time the efficiency of infrastructure utilisation at national and EU level should increase.

**The IA under the interoperability and safety pillar would assess** several 'institutional' options on the level of interaction between ERA and national authorities with the aim to (a) enhance the effectiveness and efficiency of safety certification and rolling stock authorisation processes and (b) reduce complexity caused by excessive national railway rules. As a separate option, a set of additional horizontal measures would be considered, which on their own could achieve the mentioned objectives, but could also be applied on top of the institutional options to reinforce the overall impact of reduced administrative costs/less fragmented markets.

These policy options and their impacts will be presented and assessed in detail in the respective IAs.

## 9. EXPECTED SYNERGIES OF THE PACKAGE

The idea of the proposed package approach is that there are synergies to be achieved via the combined effects of the individual initiatives. Some examples of such synergies are provided below.

- Effectiveness of *de jure* market opening depends on allowing for certain 'framework conditions', such as access to infrastructure, rolling stock, stations, train path allocation, etc. Some of these framework conditions will be addressed within the domestic passenger market opening initiatives, while the others via the proposal on infrastructure governance.
- One way to improve rolling stock availability is to support development of rolling stock leasing market (as considered under in the domestic passenger market opening IA). However, a necessary condition for that is more standardised equipment and the on-going standardisation process<sup>18</sup> is expected to be enhanced by the European "passport" for vehicles, considered within the interoperability and safety initiatives.
- All initiatives would, in their own terms, contribute to a more predictable business models for RUs operating across the borders of EU Member States:
  - interoperability initiative by harmonising approach to safety certification and authorisation of rolling stock,
  - market access initiative by introducing universal licence for provision of passenger services throughout the EU and setting common principles for PSO definition, and
  - infrastructure governance initiative by proposing a more harmonised institutional setup of infrastructure managers in different Member States.
- Better infrastructure governance should improve the operational efficiency of railways and possibly allow to improve the travel times for passengers and freight.

Overall, the different operational gains expected as a result of each initiative should allow a better value for public money, on which the functioning of railways is still heavily reliant.

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<sup>18</sup> As the result of the changes induced by the Technical Specifications for Interoperability (TSIs) decision.

## ANNEX 2

### PUBLIC CONSULTATION

#### 1. Introduction – overview of the consultation process

The consultation process was executed through several channels to reach out to different groups that face different problems vis-à-vis railways and that may be impacted differently by the 4<sup>th</sup> railway package initiative.

In this context, 4 consultations run in parallel were preferred to an open consultation:

- a stakeholder consultation
- a Eurobarometer survey
- a consultation of the Sectoral Social Dialogue Committee for Railways
- a consultation of regional authorities (together with the Committee of the Regions)

The views of **stakeholders** were collected through targeted detailed questionnaires and were completed by face-to-face interviews, one intermediate hearing and a final conference.

The views of citizens and passengers were collected through a broad **Eurobarometer survey** involving 25.591 interviews in 25 Member States (Cyprus and Malta have no railways) asking some 25 questions.

The **Sectoral Social Dialogue Committee on Railways** was consulted twice, in February and June 2012.

Finally, the network of the Committee of the Regions was used to reach **local and regional authorities**.

#### 2. Consultation of stakeholders

##### 2.1 -Overview of the consultation

The consultation of stakeholders was organised in 5 phases.

**Figure 1- The Stakeholders Consultation Action Plan**



After a thorough identification of 427 potential respondents (cf. infra), in-depth questionnaires were sent to each group of main stakeholders (railway undertakings, infrastructure managers, public transport authorities, safety authorities, ministries, representative bodies, social stakeholders, etc.).

The contractor in charge of the support study conducted face-to-face interviews with stakeholders in Germany, UK, Italy, Hungary and Sweden. In parallel, face-to-face interviews were organised with those stakeholders that wished to meet DG MOVE, including face-to-face meetings in Sweden, Poland, Belgium, France, Germany and The Netherlands.

On 29 May 2012 a public hearing with 85 participants was organised in Brussels to share preliminary results obtained in the analysis of completed questionnaires and to obtain feedback on these findings. The workshop also sought to explore some specific issues: access to rolling stock, unbundling and social impacts for consumers and workers.

On 24 September, a stakeholder conference was organised in Brussels with some 420 participants. The conference gave the opportunity to stakeholders to provide their views on the opening of domestic rail markets to competition, on their role to growth, on rail and the value for society.

All feedback made by way of the questionnaire, the public hearing, by phone or by face-to-face sessions was analysed in detail and contributed to the definition of the problem and the analysis of impacts. The comprehensive consultation process described meets the Commission's standards for public consultation.

## **2.2 Profile of identified stakeholders and respondents**

### 2.2.1 – Profile of respondents to the stakeholder questionnaires

Initially, almost 427 stakeholders from EU-25 (EU-27 excluding Cyprus and Malta which have no railway) were identified as being involved and potentially affected by the market opening. The detail of these persons and organisations is at the end of this annex.

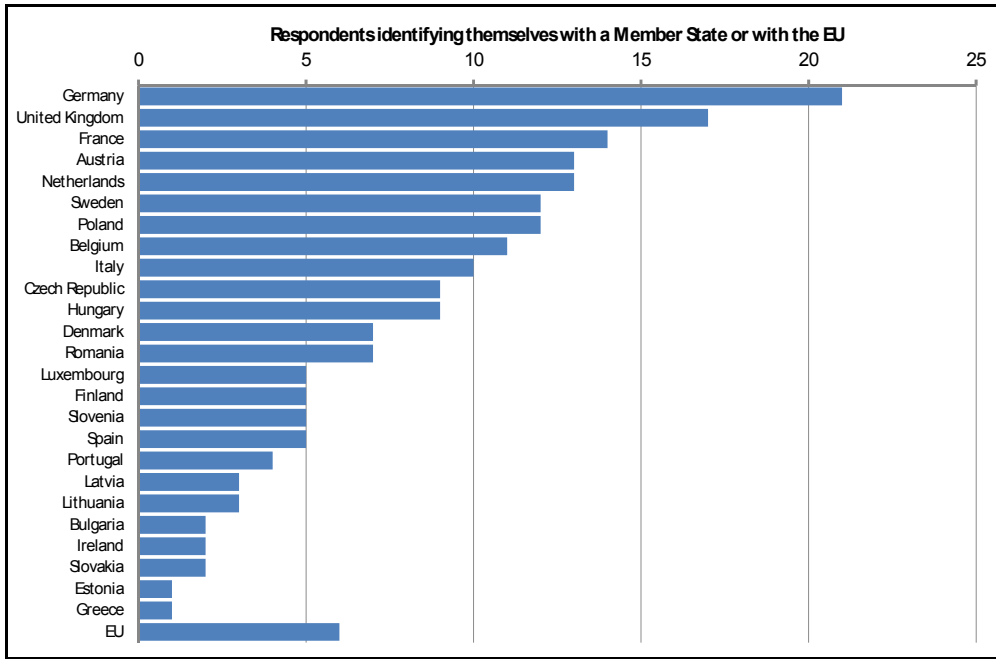
These stakeholders can be categorised in four groups:

- authorities (rail regulatory bodies, competition authorities and ministries of transport)
- infrastructure managers
- railway undertakings (including incumbent and newcomers), and
- other stakeholders (railway manufacturers, wagon keepers and rail car leasing companies, terminal operators, maintenance workshop operators and other providers of rail related services, customer and rail passenger organisations, railway workers' organisations).

In March 2012, these 427 stakeholders were sent several on-line questionnaires that comprised a set of common questions like the important factors associated with quality of rail services, the problems that affect the quality of rail services, the objectives of the Fourth Package policy initiative, policy options with market opening, but also specific questions related to the issue that might have greatest relevance to the organisation(s) that they are representing. Of almost 427 questionnaires sent, 99 completed questionnaires were returned representing 172 organisations (cf. infra).

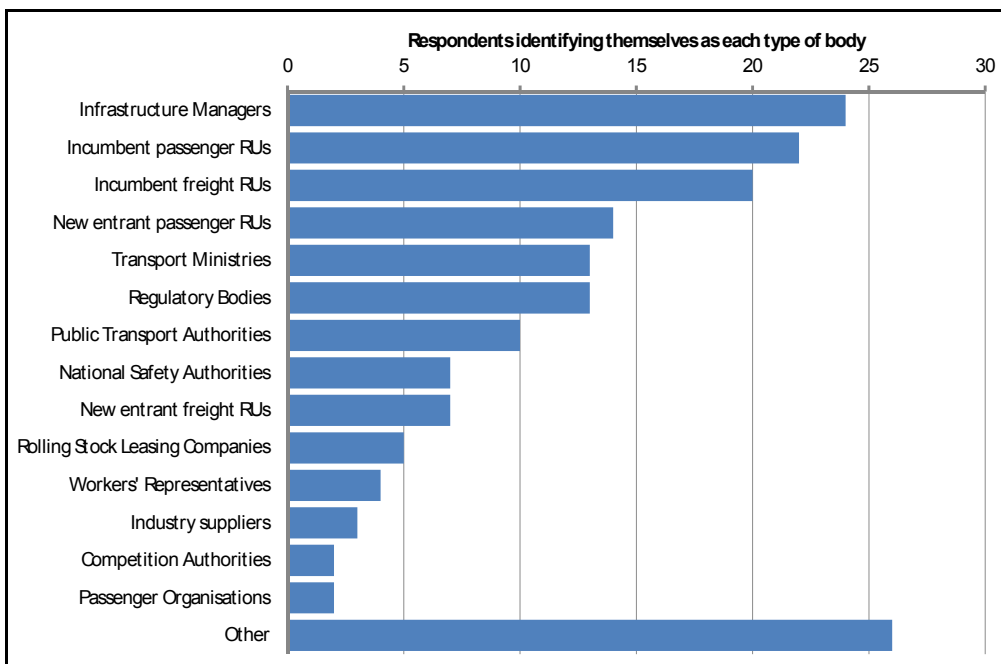
Responses were obtained from the 25 Member States. However, for 12 Member States there were 5 or fewer responses.

**Figure 1 - Respondents' self-reported location of activities**



The 99 respondents identified themselves as representing a total of 172 different types of organisations (which represents a response rate of 41%).

**Figure 2 - Respondents' self-reported type of activity**





Because of double identifications<sup>1</sup>, respondents were reclassified to provide a better view of the profile of the types of stakeholders. Respondents might have more than one role for reasons such as:

- Railway undertakings identifying themselves as both passenger and freight, or as incumbent in one Member State and new entrant in one or more others
- Holding companies identifying all the roles fulfilled by their subsidiaries
- Regulatory bodies which are also competition authorities
- Representative bodies that represent different types of stakeholder

As noted above, we received fewer responses from some Member States and types of organisation. We concluded that it would not be possible to analyse systematically by both Member State and respondent type.

After careful review of the identity of the respondents we therefore reclassified them with the objective of providing a clearer basis for analysis:

From the organisation name provided, we identified and distinguished:

- Holdings/groups
- Associations/representatives

For railway undertakings:

- Incumbent and new entrant passenger railway undertakings were combined as “Passenger RU”
- Incumbent and new entrant freight railway undertakings were combined as “Freight RU”

We combined into a single category of “National Authorities” three different types of respondent, all with at least some regulatory role:

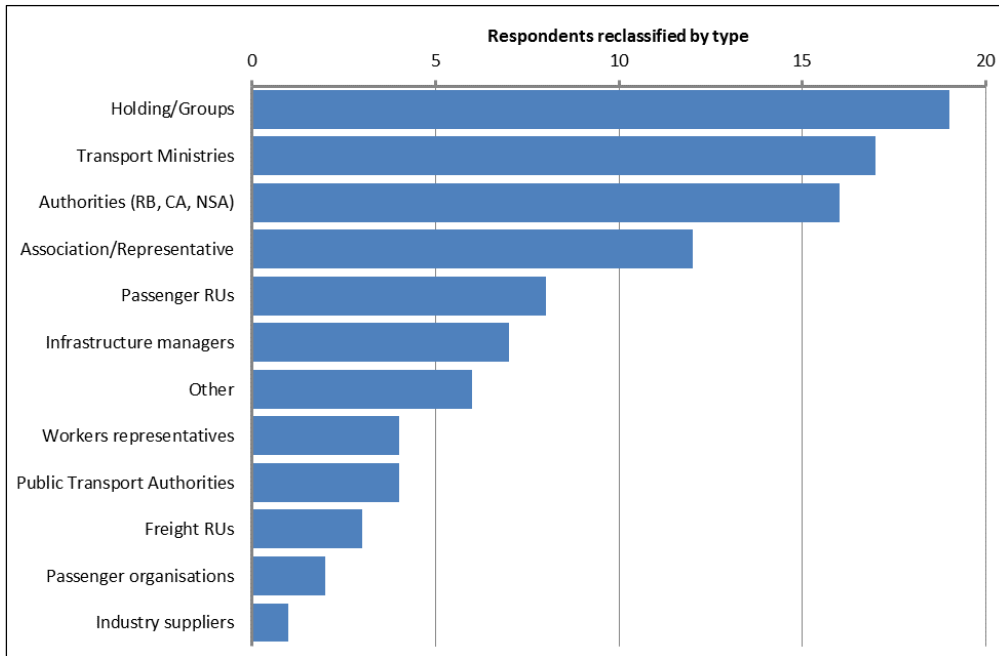
- Regulatory bodies
- Competition authorities
- National safety authorities

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<sup>1</sup> The 99 respondents reported 172 different industry roles:

- 38 described themselves as having a single role
- 35 described themselves as having more than one role
- 26 described their role as “other”

**Fig. 3 – Respondents reclassified by type**



Finally, the answers represent an exhaustive sample and a good cross-section of stakeholders from almost all MS.

### 2.2.2 – Profile of participants in face-to face interviews

In April 2012, targeted interviews with stakeholders were organised by the contractor in charge of the support study in UK, Italy, Sweden, Hungary and Germany to discuss and understand better their responses during the extensive stakeholder consultation exercise. The majority of these interviews were held as face-to-face sessions, with many of the most significant stakeholders within Member States of those countries for which more detailed case studies were prepared. In addition, the Commission held bilateral meetings with certain Member States as well as with numerous associations from the rail sector in order to hear their views.

**TABLE 1 STAKEHOLDER INTERVIEWS (CONTRACTOR)**

Rationale	Location	Face-to-face	Telephone	Written
Full country fiche	France	7		
	Germany	6		
	Great Britain	5		
	Hungary	4		
	Italy	4		
Intermediate country fiche	Austria	1	1	
	Czech Republic	1		1
	Netherlands	1		
Pan-European organisations		4		

Commission services met (in Brussels) with representatives from the following organisations throughout 2012:

- BAFG – German Association of Passenger Rail Authorities
- CER – Community of European railways
- DB – German railways
- EIM – European Infrastructure Managers Association
- EPTO – European Passenger Transport Operators
- EPF – European Passenger Federation
- ERFA – European Railway Freight Association
- ETF – European Transport Worker's Federation
- Network Rail (UK infrastructure manager)
- NMBS-SNCB Holding (Belgian Railways)
- ÖBB – Austrian railways
- SNCF - French railways
- UITP – Union Internationale des Transports Publics
- UK Department for Transport

Additionally, the Polish, Swedish and Dutch authorities organised meetings between stakeholders (infrastructure managers, regulators, railway undertakings) and Commission services in Stockholm, Frankfurt, Warsaw and Utrecht:

### 2.2.3- Profile of participants of stakeholder hearings and conferences

The list of participants to the stakeholder hearings and conferences was drawn on the basis of the list of initially 427 identified stakeholders and others who requested participation.

The following organisations took the floor at the stakeholder hearing of 29th May:

- Association of Train Operating Companies (ATOC) UK
- BAG SPNV (German passenger transport authorities)
- Community of European Railways (CER)
- Deutsche Bahn
- European Infrastructure Managers (EIM)
- European Passenger Federation (EPF)
- European Passenger Transport Operators (EPTO)
- European Rail Freight Association (ERFA)
- European Transport Workers Federation (ETF)
- Ferrovie dello Stato / Trenitalia
- Freighliner
- Irish Department of Transport
- JSC Lithuanian Railways
- Ministry of Transport, Infrastructure and Environment (Netherlands)
- Ministry of Transport (France)
- SNCF
- Network Rail (UK Infrastructure Managers)
- NTV Nuovo Trasporto Viaggatori
- Transportstyrelsen (Swedish regulator)
- Union Internationale des Transports Publics (UITP)
- Veolia

The following organisations made presentations at the stakeholder conference of 24<sup>th</sup> September:

- Ministry of Transport (Sweden)
- Community of European Railways (CER)
- NTV Nuovo Trasporto Viaggatori
- First Group (UK)
- Amadeus
- Ministry of Transport (Belgium)
- CFR Calatori (Romanian railways)
- GATX Railcar Leasing
- Office of Railway Regulation (UK NSA)
- Freighliner UK
- Freighliner Poland
- UNIFE (European railway industry)
- European Infrastructure Managers (EIM)
- Network Rail (UK Infrastructure Manager)
- BAG SPNV (German passenger transport authorities)
- European Passenger Transport Operators (EPTO)
- Verkehrverbund Berlin-Brandenburg

- European Passenger Train and Traction Operating Lessors' Association ( EPTTOLA)
- Province of Gelderland (Netherlands)
- - as well as:

Members of the European Parliament who are Members of the Transport Committee (see detailed conference summary in Annex 10).

### **2.3 The stakeholder consultation process**

This targeted consultation was organised by the contractor in charge of the support study. The consultation took place from 1<sup>st</sup> March till 16 April (responses obtained till mid-June were accepted and incorporated).

As a first step, the contractor consulted stakeholders through a two-part questionnaire sent via email. The first questionnaire was common to all stakeholders and was completed by extra questions for each type of organisation (infrastructure manager, passenger operations, worker's representative etc...).

The questionnaires were structured in four sections focused on:

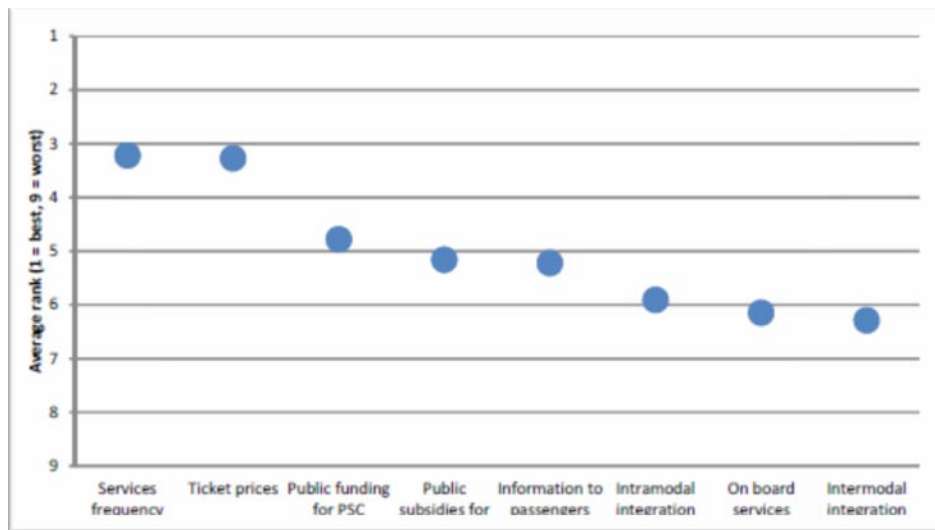
- The quality of rail services in the EU, which includes punctuality, passenger comfort, on board services, information, service frequency and intra-modal and intermodal integration,
- Obstacles which hamper market access, limit new entrants and hinder the internal market for rail passenger services;
- The different objectives of this policy initiatives that could improve the quality of rail services
- Checking the preferences of stakeholders for specific options to achieve/secure market opening

### **2.4 - Main results of the on-line consultation**

The majority of the stakeholders (85% for passenger services and 90% in freight services) agreed that the quality of rail services affects the competitiveness of the rail sector and 60% of the stakeholders think that quality issues are different for passenger services provided under public service contracts than those provided by open access.

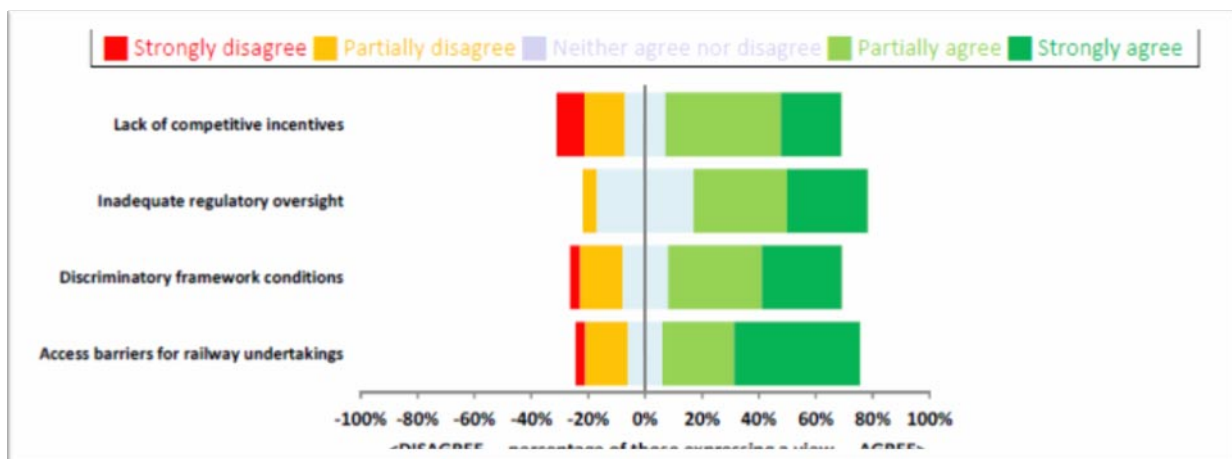
Concerning the importance of each issue that affects quality of rail services, services frequencies and ticket prices ranked most important, as shown the following table:

Figure 4 - Elements that affect the competitiveness of the rail sector. Source: SDG



The majority of stakeholders of the targeted consultation supported the problem drivers and agreed that the quality of rail services and the competitiveness of the rail sector in the EU were affected by the lack of competitive incentives, inadequate regulatory oversight, discriminatory framework conditions and access barriers for railway undertakings. Many holdings disagreed with "discriminatory framework conditions" and many authorities disagreed with "inadequate regulatory oversight".

Figure 5 – Support of the stakeholders about aspects that affect quality of rail and have an impact on the competitiveness of the rail sector in the EU.

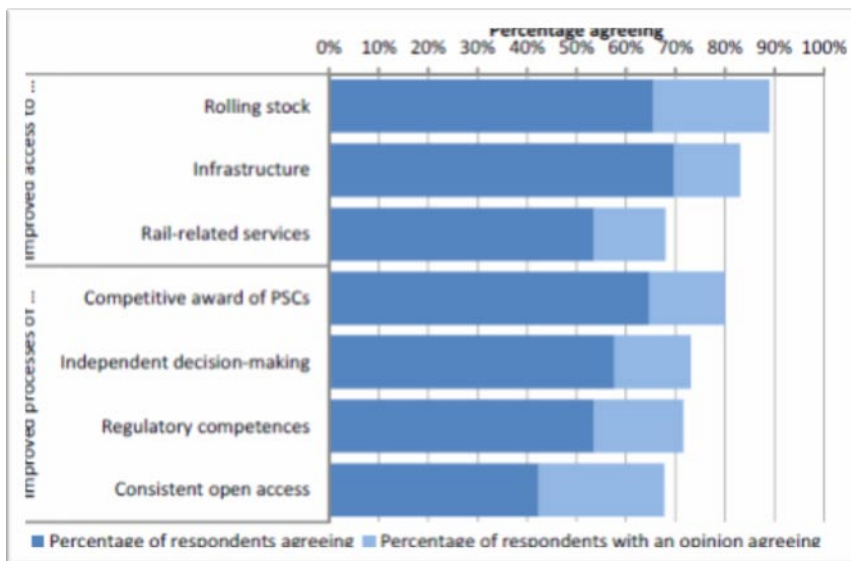


Stakeholders highlighted in particular infrastructure capacity, access to rail-related facilities, rolling stock availability, inadequate resources, divergent interpretation of legislation, lack of financial transparency and lack of competitive tendering as the main factors driving those problems.

Overall, the stakeholders have supported the general problem and the problem drivers as identified by the Commission, as well as the general direction of EU action. 72% of stakeholders agreed that

access to rail-related facilities was an access barrier for railway undertakings and 69% agreed that the objective of improved access to infrastructure addressed the objective of the initiative.

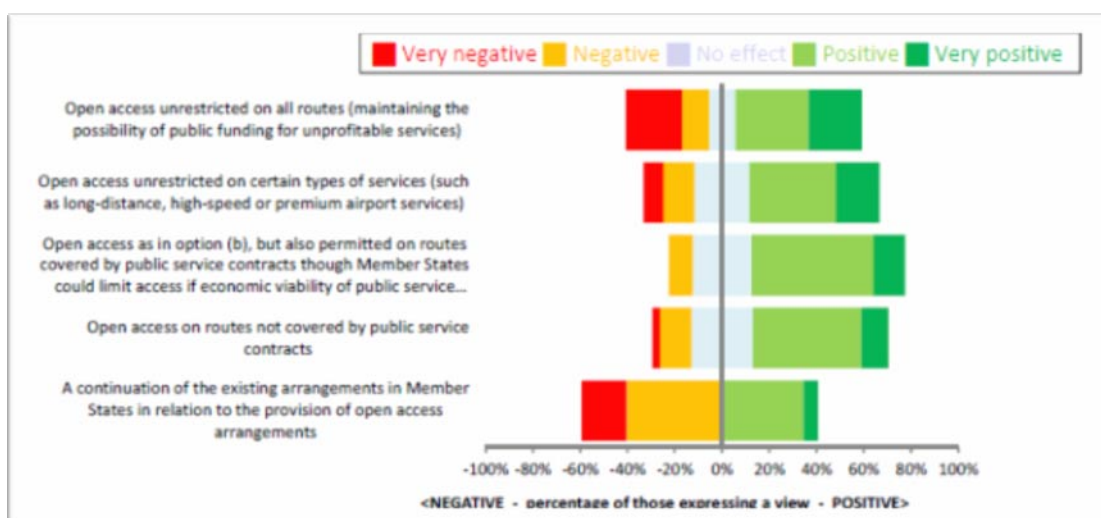
**Figure 6 - "do you believe that the following objectives address the issue of improving the quality of rail and the competitiveness of the rail sector in the EU.**



In terms of market opening, an equal majority of respondents (60%) agreed that additional new open access rights or compulsory competitive tendering could stimulate market integration. A small minority of respondents (15%) disagreed. Most of those agreeing are Transport Ministries and regulatory bodies, with most holding groups neither agreeing nor disagreeing.

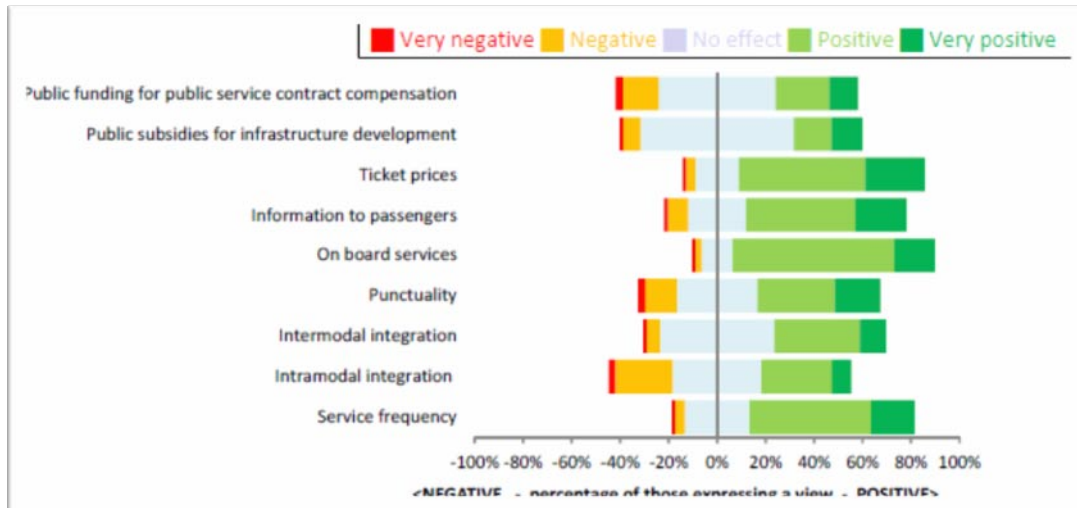
Open access subject to the viability of public service contracts is seen more positively than all the other options (55% of agreeing respondents) – the current arrangements are seen very negatively (20% of support). The continuation of existing arrangements (i.e. baseline) was the worst rated option.

**Figure 7 - Support of the different possible policies for open access.**



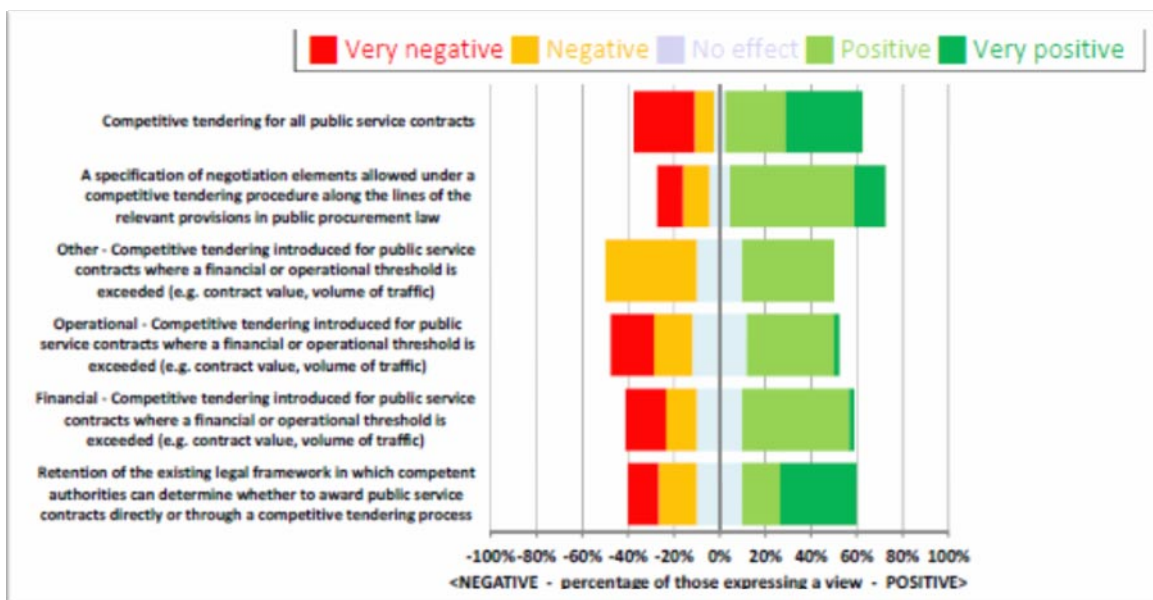
The expected benefits by the stakeholders of further market opening through new open access rights in the domestic market have been assessed. The best benefits are foreseen in ticket prices, services frequencies and on-board services, as shown in the following table.

**Figure 8 - Effects of further market opening through new open access rights in the domestic market.**  
Source: SDG



As regards compulsory competitive tendering, respondents also were more supportive of flexibilities akin to those of the negotiated procedure in public procurement (45% of agreeing respondents) and transitional periods for the gradual letting of all public service contracts (80% of agreeing respondents).

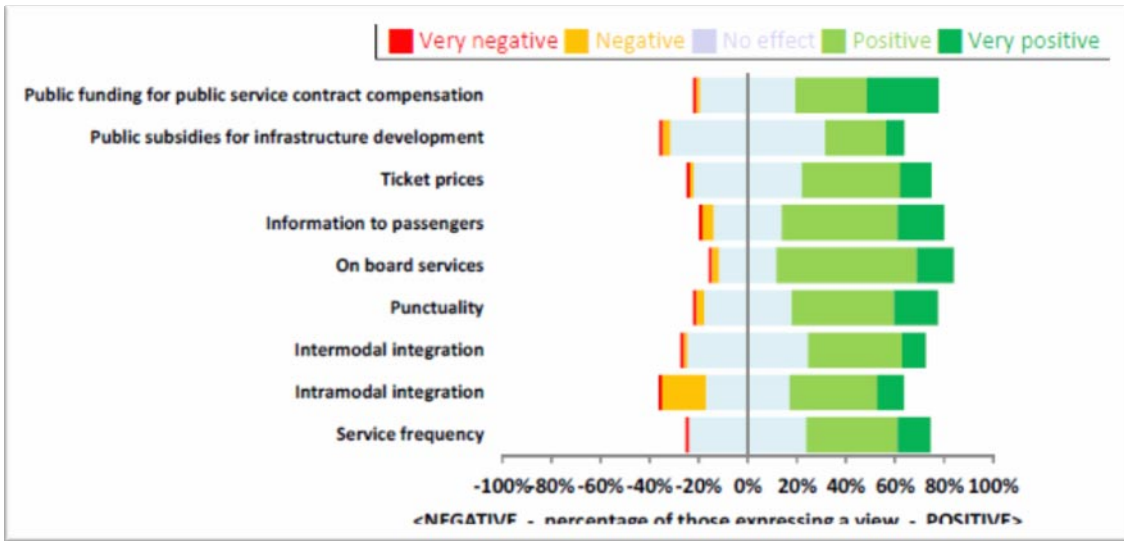
**Figure 3 - Support of the different possible policies for competitive tendering.** Source: SDG



The expected benefits expressed by the stakeholders, of further market opening through new open access rights in the domestic market have been assessed. The best benefits are foreseen in ticket prices, services frequencies and on-board services, as shown in the following table.

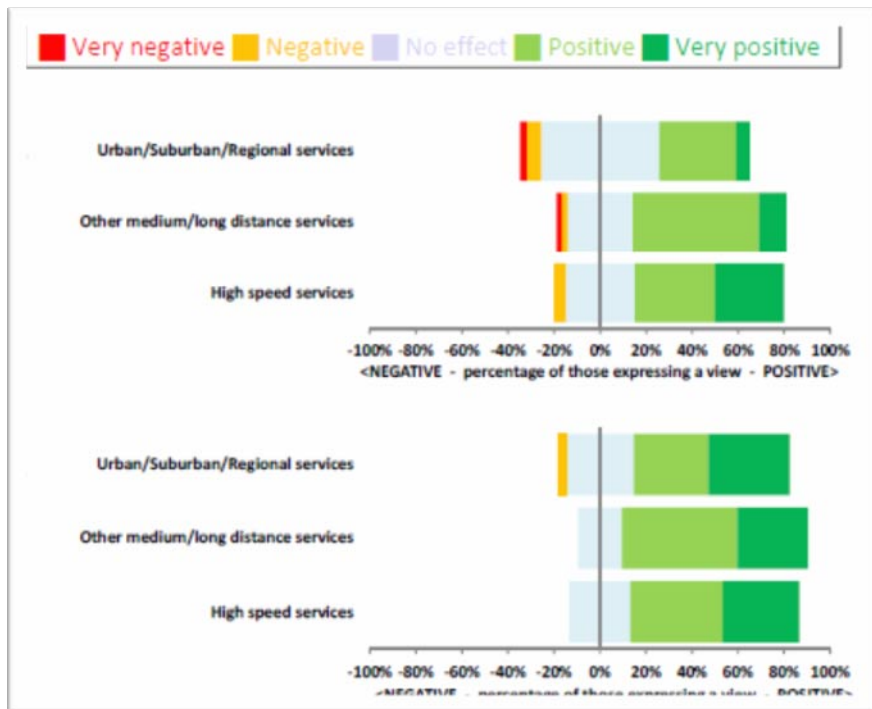


**Figure 4 -Effects of further market opening through new compulsory competitive tendering for public service contracts in the domestic market. Source: SDG**



Open access is seen as most successful on high-speed services and least successful in the urban, suburban and regional segments. Competitive tendering has been rated more positively than open access in all segments.

**Figure 5 - Comparison of the options of open access and competitive tendering: past experience (assessed with an increasing demand after a new services has been opened). Source: SDG**



Views are polarised regarding the development at EU level of compliance criteria in public service obligations, with a slight majority responding negatively. None of the proposals of compliance

criteria (quality of train service, impact of public service funding, scope of the contract, proportionality and necessity test) was supported by more than 50% of those with an opinion. In any case, if criteria were to be developed, then a very large majority of stakeholders (95%) agrees that a consultation of stakeholders would be needed. A majority of respondents (65%) supports an extension of the compensation rules of Regulation 1370/2007 on public service obligations in rail and urban transport in the case of a single bidder.

In terms of framework conditions, there is overwhelming support (95%) for clear conditions on the transfer of staff during the transfer from one operator to another of a rail service contract. Regarding improved access to rolling stock, a majority of respondents (60%) agreed that the creation of rolling stock leasing companies would help to solve the problem and a vast majority (75%) called for full access to technical information to be provided by the infrastructure manager. As regards ticketing, there was a preference for a light approach such as non-binding provisions or enabling clauses for voluntary agreements rather than compulsory measures at EU level or at Member State level.

## **2.5 - The stakeholder hearing of the 29th May**

The stakeholder hearing was devoted to the presentation of the results of the on-line consultation and subsequent discussions on access to rolling stock, market opening (open access versus competitive tendering), unbundling (not relevant for this impact assessment) and the overall impacts for consumers and workers.

### 2.5.1 - Access to rolling stock

All participants agreed that access to rolling stock was a major problem. Several stakeholders linked the question of access to rolling stock to the problem of the length of public service contracts in terms of financial outlay/guarantee. For some stakeholders, the problem was broader and required action at EU level to make rolling stock more similar throughout the EU, whereas one national Ministry raised the question whether it was not a matter to be regulated at national level.

### 2.5.2 - Market opening

A large variety of opinions were expressed regarding market opening, in particular regarding a perceived "cherry picking" of services. Railway incumbents and a worker organisation felt that open access leads to cherry-picking (an incumbent went as far as to describe the railway market for incumbents as "potato picking" with all unprofitable services being left to them). New entrants were very vocal in arguing that incumbents also cherry-picked in their own network and that they would be eager to participate in calls for tender for public service contracts provided that adequate funding was provided for the latter. A workers organisation indicated that the Protocol XXVI of the TFEU on Services of General Interest provides local authorities to provide for public service obligations.

### 2.5.3 - Overall impacts on consumers and workers

Stakeholders commented on the impacts for consumers and workers on the basis of the outcome of the Eurobarometer survey (cf. infra). Several stakeholders raised questions on the sampling and surveying methods of the Eurobarometer, which were answered by the contractor in charge of the survey (TNS Opinion). As far as ticketing was concerned, a new entrant and a regulator called for more integration in ticketing. A passenger federation indicated that what most passengers wanted was through-ticketing. As far as workers were concerned, a workers organisation pointed to the decrease in employment and deterioration in workers conditions. Several new entrants and freight

operators contested this analysis: they indicated that in the UK the wages of drivers had increased as a direct result of rail liberalisation.

#### *1.1.1. 2.6 - The stakeholder conference of 24 September*

A stakeholder conference was organised on 24 September with several presentations, which allowed gathering facts regarding experiences with domestic opening, in particular in the context of a specific workshop devoted to "Rail and its value for Society". The conference was attended by 420 representatives across the industry who participated in 3 key workshops as well as hearing an array of speakers.

It was clear that there was a desire to get the structure of the railway right once and for all. An interactive and competitive railway across all of Europe was in the best interests of everybody. Interoperability is vital to allow innovation through liberalisation and a level playing field is a prerequisite for encouraging new market entrants.

The Minister of Transport of Sweden presented the experience of Sweden in rail liberalisation, which came after the Swedish crisis of the early 90s. CER explained that it was important that open access did not compromise PSCs, while advocating direct awards and reciprocity clauses. The new entrant First Group emphasized the need to generalise competitive tendering, whereas NTV showed how the high-speed rail market in Italy was growing (+5% of traffic) in spite of the recession in Italy. CFR Calatori, the Romanian Railways, explained the difficulties of operating in Romania, with an increasing competition with rail. EPF, the European Passengers Federation, called for more transparency in the awards of public service contracts.

Participants were broadly in favour of improving the competitiveness of rail and further development of the Single European Rail Area. For sustainable high quality and efficient transport a move to mandatory tendering of contracts with some open access provision was felt to provide improved value through a reduction in public subsidies and benefits through improvements in service quality and infrastructure use. Fears of social dumping and lowering of safety standards were tempered down drawing on the experience of the Member States that liberalised their rail markets. Access to rolling stock for market entry was deemed to be vital as was the need for consistency and clarity of regulations and stability in the marketplace.

The VBB (Verkehr Berlin-Brandenburg) presented its own experience with tendering in Berlin and with the splitting of S-Bahn lines in Berlin. It contested that tenders reduce jobs. In fact, the increase of traffic creates new jobs. Finally, the SNCF expressed its overall scepticism with the opening of domestic passenger rail markets as rail is capital-intensive industry (that requires important investments in infrastructure which incumbents are better placed to maintain than new entrants).

Further details of this conference are presented in Annex 6.

#### *1.1.2. 3- Consultation of the passengers: the Eurobarometer survey*

### **3.1 – Overview**

An Eurobarometer survey was organised to reach citizens and rail passengers to better understand their opinions on issues that affect them directly, like the impact of competition on travel journeys and their perceptions on that. The survey was conducted through face-to-face interviews in the respondent's home. The survey was organised by an external consultant and took place from the 10 to 25 March 2012

### 3.2 – Profile of respondents

The Eurobarometer survey reached out 25 591 respondents evenly spread across the 25 Member states with railways.

Respondents to the Eurobarometer were asked how often they travel by **national or regional trains** (this excludes suburban trains). It resulted that only a small minority (6%) of Europeans are regular rail passengers: 2% use them on a daily or almost daily basis, 2% several times a week, 2% only once a week. Almost a quarter (23%) of the interviewees is occasional rail passenger who travel by national or regional trains several times a month (4%) or several times a year (19%). Slightly over four in ten Europeans (41%) **use suburban trains**: it revealed that only small minorities (7%) of Europeans are regular suburban train passengers and almost six in ten Europeans do not take such trains (59%). Finally, rail passengers' **main reason for travelling** by national or regional train is to go on leisure trips (70%); just a few rail passengers mention going to work or study (10%) or business trips (10%).

### 3.3 – Main results of the survey

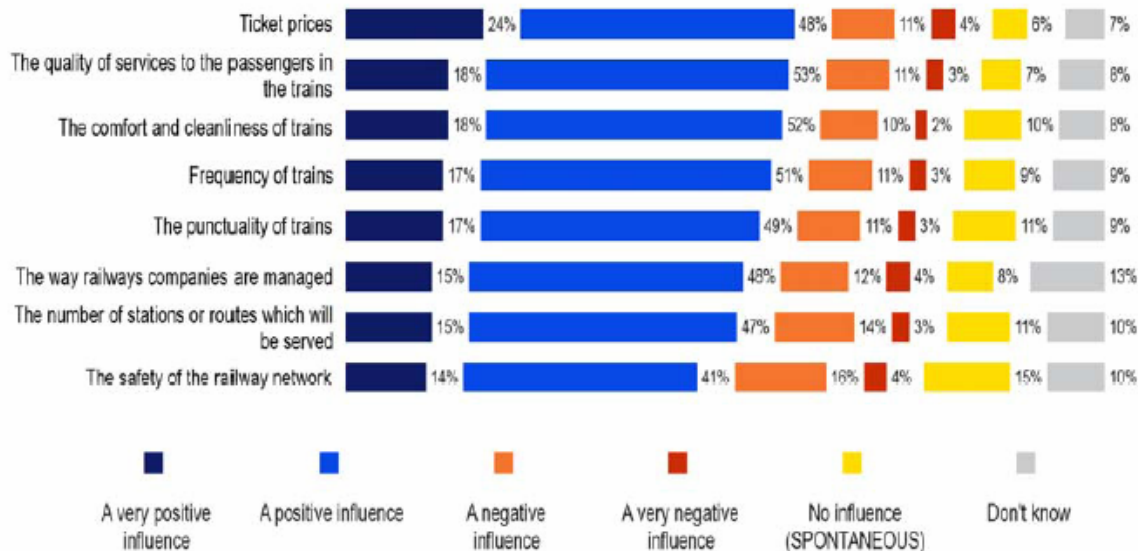
Only almost half of Europeans (46%) are **satisfied** with the current national and regional rail system in their country. A significant proportion nevertheless answers that they are not satisfied (36%). The level of satisfaction of rail has slightly improved since 1997 (then 41% of satisfaction), but remains below the level of satisfaction of air transport before the full opening of air transport throughout the EU (in 1997, 53% of Europeans were satisfied with air transport).

When Europeans who travel by train never or at most once a year are asked **what improvements would encourage** them to rail travel, more than four in ten mention lower prices (43%). Other improvements are cited far less often: better network with more routes or stations (20%), faster journeys (17%), more reliable services (16%), more comfortable and cleaner trains (16%), and more frequent services (14%). Nearly three in ten respondents who never or rarely travel by train spontaneously mention that nothing could encourage them to do so (28%).

The majority of Europeans (71%) **support** opening the national and regional rail system to competition provided that all operators must meet the same safety standards.

Absolute majorities of Europeans expect that more competition in the rail market will have a **positive influence on the following**:

**Figure 6 - expectations concerning the effects of further competition in the rail market**



Absolute majorities of Europeans expect that more competition in the rail market will be **good for individual stakeholders**:

- Passengers (78%)
- Private rail operators (68%)
- Employees of rail transport operators (55%)

European opinion is divided about the impact of more competition in the rail market on the **public funding of the rail sector**: 34% say public funding will decrease, 30% think it will stay the same, 19% believe it will increase, and another 17% have no opinion on this.

Moreover, striking differences exist between supporters and opponents of rail market competition with respect to their expectations about the influence of competition on various matters. This is true in particular for the safety of the railway network, the way railway companies are managed, the passengers, and the employees of rail transport operators; absolute majorities of the opponents believe competition will have a negative influence in these four matters.

When Europeans are asked about their **wishes regarding railway offers** as an effect of more competition:

- 70% wish for low-cost offers or ‘no frills’ rail service similar to that provided by some airlines
- 43% wish for premium offers which would be more expensive but would include additional services (meals, films, newspapers, etc...)

Turning to their **wishes regarding ways to purchase tickets** as an effect of more competition:

- 65% of Europeans wish for more ways of buying tickets (e.g. online, via smartphones, or on board)
- 75% of those for whom multiple-operator rail journeys are relevant, say that they would like to be able to buy tickets and obtain information covering the whole journey through one single point.

#### *1.1.3. 4 – Consultation of social partners*

The railway manufacturing industry responded through one questionnaire and worker organisations were also consulted through the Social Dialogue Committee and through ETF (European Transport Workers Association) in the consultation of stakeholders (social aspects were also covered during the stakeholder hearing of 29 May).

The Sectoral Social Dialogue Committee on Railways was consulted on 26 March and 19 June, in particular on the options and the social impact assessment. Associations of workers were overall sceptical that the opening of domestic rail passenger markets would contribute to the growth of the rail traffic, the improvement of the efficiency and quality of rail services. Worker organisations present at the meeting highlighted that funding of the rail sector and its infrastructure would be more effective to reach those same objectives. Worker organisations did not position themselves on any of the options that were presented to them on those meetings, since these involved liberalisation of the sector, which they fundamentally opposed whereas the employer's side did not take part in the discussion.

In the context of the stakeholder consultation, specific questionnaires were sent to workers organisations. During the stakeholder hearing of the 29<sup>th</sup> May, views were exchanged regarding the social impacts of the opening of domestic passenger rail markets. Commission services also met bilaterally twice with ETF.

#### *1.1.4. 5 – Consultation of local and regional authorities*

### **5.1 - Overview**

The targeted consultation of local authorities through the network of the Committee of the Regions was used to remedy to the relatively low level of responses of public transport authorities. Local (passenger transport) authorities were consulted with the help of the Committee of the Regions from the 14 May till 18 June.

### **5.2 Profile of the respondents**

The following 11 regional competent authorities responded to the consultation:

- Extremadura (Spain)

- Aragon (Spain)
- Basque Government (Spain)
- Association des Régions de France
- Association of European Border Regions
- Netwerkstad Twente (The Netherlands)
- Fundacion Transpirenaica (France-Spain)
- Vienna City Administration (Austria)
- Wielkopolska (Poland)
- Galicia-Northern Portugal Grouping of Territorial Cooperation
- Cataluña (Spain)

### 5.3 – Main results of the survey

*Compliance with the subsidiarity principle:*

- Should EU define/specify additional criteria for competent authority? (Yes 7/11)
  - *No it's sufficient : Extremadura Assembly, Wielkopolska Spatial Planning Office*
  - *No, because of the principle of subsidiarity: Association des Régions de France*
  - *No, it's problematic, but recommendations could be acceptable: Vienna City Administration*
  - *Yes : Basque Government, Galicia-Northern Portugal European Grouping of Territorial Cooperation, Parliament of Catalonia, Aragon Government, Association of European Border Regions, Fundacion Transpirenaica*
  - *Yes, but not in detail Service Level agreements: Netwerksad Twente*

**Local and regional authorities that participated in the consultation expressed conflicting views on the introduction of additional criteria (based on general principles of the Treaty) to be applied by competent authorities when defining PSO in rail. A large majority of the local and regional authorities (64% of respondents) supported the introduction of additional criteria to be applied by competent authorities in particular the Spanish ones and the Association of European Border Regions).**

- Degree of detailed in these additional criteria should be defined?
  - *The maximal degree: Basque Government, Fundacion Transpirenaica, Parliament of Catalonia, Aragon Government*
  - *In many cases, only a minor intervention is needed: Association of European Border Regions*

- *Preferably a directive rather than regulations- general guidelines is sufficient : Galicia-Northern Portugal European Grouping of Territorial Cooperation*
- *Additional criteria everywhere except in detail Service Level agreements : Netwerksad Twente*

According to the local and regional authorities, particularly for the Spanish ones, this measure could help to further completion of a single market for rail transport services and bring clear added value, especially from a cross-border point of view (see above): harmonisation and integration of the markets. Other (Extremadura Assembly, Association des régions de France, Vienna City Administration, Wielkopolska Spatial Planning Office, hence some 36% of respondents) consider that there is no need for additional criteria, since the existing regulatory environment already provides all the elements needed. They also consider that local and regional authorities are better placed to respond the needs of users in their territories, viewing this as a competence that should remain at regional level. In any case, the introduction of additional criteria could raise some concerns from a subsidiarity point of view. Therefore, the argument for their introduction should reflect this and be as comprehensive as possible, taking into account the special needs of the different regions and territories in the EU.

- *Added value?*
  - *Economical :*
  - *In the case of the central Pyrenees crossing, according to the most recent study, carried out June 2012, GVA would be generated of over EUR 19 billion, i.e 0.16% of the EU-27 GDP (freight rail link): Aragon Government, Fundacion Transpirenaica.*
  - *Increasing economic activity : Association of European Border Regions*
  - *Harmonisation and integration of the market : Basque Government*
  - *Avoid inequalities and unfairness : Galicia-Northern Portugal European Grouping of Territorial Cooperation*

#### *Procedure for awarding PSCs for passenger services*

- ***To complete the Internal Market, should there be further EU harmonisation of the procedure for awarding PSCs for passenger services? (merits and problems)***

#### Problems:

- *Poorer quality and management: Extremadura Assembly*
- *Difficulties for authorities (crisis, different situations) because of inappropriate rules: Régions de France*
- *Burden of the implementation : Régions de France*
- *Harmonisation adds further complexity to contracting procedures, abolish the possibility to award contracts directly: Vienna City Administration*
- *Damage to rail service providers from smaller countries: Galicia-Northern Portugal European Grouping of Territorial Cooperation*

#### Merits



- *Cross border links overcoming major physical barriers, facilitate cross-border cooperation: Aragon Government, Association of European Border Regions , Fundacion Transpirenaica*
- *Harmonisation for awarding PSCs: Aragon Government, , Fundacion Transpirenaica, Galicia-Northern Portugal European Grouping of Territorial Cooperation*
- *Less costly for the public purse: Aragon Government*
- *Further and integrated market in rail services: Basque Government*
- *Prevent protectionism : Basque Government*
- *Easier for operators to provide services in all the EU : Basque Government*
- *Sustainability, environmental protection: Association of European Border Regions*
- *Viability: Association of European Border Regions*
- *Regional development : Association of European Border Regions*
- *Encourage large conglomerate : Galicia-Northern Portugal European Grouping of Territorial Cooperation*

Further EU harmonisation of the procedure for awarding PSCs for passenger services in order to complete the single market for rail services would help to liberalise rail transport services, avoid protectionism behaviour and favour the provision of services across MS, provided that legal and technical specifications are harmonised first. It would also benefit cross-border regions (particularly when there is a physical barrier such as the Pyrenees, that's why a lot of Spanish authorities are in favour of further EU harmonisation) and more quality services for users. Nevertheless, it must be taken into account that such a measure could risk adding more complexity to the system, which could amount to more red tape.

- *Aspects that should be taken into account*
  - *Joint planning (cross-border and transnational public calls for tender) issued by the relevant national or EU authorities : Aragon Government, Association of European Border Regions, Fundacion Transpirenaica*
  - *Technical coordination (single approval system) – full interoperability : Aragon Government, Basque Government, Fundacion Transpirenaica*
  - *Harmonisation of the legal requirements: Basque Government*
  - *Quality of services and the volume of services provided, frequencies, number of destinations: Galicia-Northern Portugal European Grouping of Territorial Cooperation*
  - *Outlying locations : Galicia-Northern Portugal European Grouping of Territorial Cooperation*
  - *Transparency, equality, conditions of access: Parliament of Catalonia*

#### *Compliance with the proportionality principle*

- *Alternative action if proposed action goes further than is necessary to complete the Internal Market for rail:*
  - *EU action is appropriate: Basque Government*

- *Set up systems for direct award by the EU: Aragón government, Fundacion Transpirenaica*
- *Before anything is done, the legislation 1370/2007 must be fully implemented : regions de France*
- *Enhancing passenger rights: Netwerksad Twente*
- *Preserving the existing legal provisions till 2015: , Wielkopolska Spatial Planning Office*
- *General Guidelines (through directive): Galicia-Northern Portugal European Grouping of Territorial Cooperation*

In this context, the proportionality principle should be duly taken into account and complied with.

### Cross –border cooperation

Further market liberalisation in the rail transport sector would be positive for cross-border cooperation (for 60% of those who had given opinions on the impacts of further market opening through new open access rights or compulsory competitive tendering regarding cross-border cooperation). In particular, liberalisation could improve that quality of cross-border cooperation, increase competition, encourage integrated services, reduce prices and improve quality, force railway companies to cooperate and also contribute to the opening of new routes.

### Governance

All the local and regional authorities agreed that coordination between different levels of administration is essential to ensure quality rail services and, in the case of cross-border cooperation, it is crucial. In this context, multilevel governance can be a key for success and should be guaranteed.

More than 90% of the respondents supported that the involvement of local and regional authorities in the preparation of national rail strategies is essential, in ensuring high quality rail services. Local and regional authorities are best placed to detect the different need of the citizens in their respective territories: they can bring their knowledge and experience to the table.