

REVIEW

Short - term Fiscal Needs vs. Long - term Sustainable Development

WHAT IS, AND WHAT SHOULD BE DONE TO FACILITATE AN OPEN FREIGHT MARKET FREE OF DISTORTED COMPETITIVE CONDITIONS



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ABSTRACT: The following keynote text is to respond to the following fundamental questions: a. What are the existing activities to facilitate an open freight market free of distorted competitive conditions? b. What provisions are governments making for investment in rail infrastructure? c. How do transportation policy makers need to revise their strategies to satisfy EC goals? At the moment, a majority of goods are carried on Europe's roads, even if it brings about grave global problems. This is the main reason for the constant drive to internalize the external costs of road transport pursuing the 'user pays' and 'polluter pays' principles. The recently published Greening Transport Initiatives of the European Commission, especially the amendment of the Eurovignette Directive, are a good step in this direction, even if they evoked a scope of different views among stakeholders. Also other initiatives of the Commission, such as the Freight Transport Logistics Action Plan, will lead to a better utilization of transport infrastructure and enhanced support of more sustainable transport modes. The Commission, as well as individual Member States alone or in cooperation with other interested partners, undertakes actions improving the existing rail infrastructure to be utilized by freight transport. New rail transport axes are sometimes at the top of cutting-edge technology and generally designed to host both freight and passenger rail transportation. The text brings some examples of such projects, which are being carried out in the 'new' EU countries, also with the help of European funds. So as to satisfy EC goals, the transportation policy makers need to revise their strategies in a double direction: towards active participation on implementing new Commission initiatives aimed at levelling the playing field between transport modes, and towards improving their domestic rail markets and correcting shortcomings in the implementation of the First Rail Package, so that rail freight should be able to regain and extend its market position also 'by its own force'.

KEYWORDS: Rail freight transport, internalization of external costs, Eurovignette Directive, Freight Transport Logistics Action Plan, rail infrastructure, European funds, First Railway Package, conflicts of interests.

1 EXISTING ACTIVITIES TO FACILITATE AN OPEN FREIGHT MARKET FREE OF DISTORTED COMPETITIVE CONDITIONS

Freight transport has undergone a tremendous growth by more than 30% in the past ten years and is expected to see similar levels of growth over the next decade. At the moment, a majority of goods are carried on Europe's roads. Nevertheless the registered and expected increase in volume causes too many accidents, brings too much congestion, too much noise and too much environmental damage and local pollution, adding to the imminent climate change which belongs to the most grave global problems. As the society bears the costs, there is still little incentive for transport users to change their behaviour and reduce the negative impacts they cause.

This is the main reason for the constant drive to internalize the external costs of road transport, which will open up the possibility for Member States to put the 'user pays' and the 'polluter pays' principles into practice and help to create a more levelled playing field between transport modes.

The problem remains with growing importance in the scope of transport priorities of both European Commission and Member States as well, which found its expression also in the White Paper "European transport policy for 2010: time to decide", adopted in September 2001. The EU's first attempt at addressing the wide range of negative external effects produced by transport was in 1993, when it put forward a directive enabling EU countries to introduce tolls on motorways, at that point primarily in order to finance the cost of infrastructure deterioration caused by heavy road vehicles¹. This directive, however, was annulled by a judgment of the Court of Justice of the European Communities in 1995², while preserving the effects of that Directive until the Council had adopted a new Directive. Therefore a new Directive 1999/62/EC of the European Parliament and of the Council on the charging of heavy goods vehicles for the use of certain infrastructures was adopted in June 1999³ and entered into force on 1 July 2000.

Known as the 'Eurovignette Directive', the Directive was revised by the 2003 Act of Accession, and again in 2006 by the Directive 2006/38/EC⁴ with the aim to extend its scope to more roads and vehicles and to making it possible for governments to integrate other costs – such as congestion, accidents, noise and air pollution – into toll prices. This made it possible to improve the efficiency of the road transport system and ensured the use of different tolls or user charges on roads, including roads on the trans-European road network and roads in mountainous regions. From 2012 onwards Directive 2006/38/EC will extend its application also to vehicles weighing between 3.5 and 12 tonnes.

However, due to different views between the Member States and the Parliament, the final text of the Eurovignette Directive de facto excluded this very possibility until a "common methodology for the calculation and internalization of external costs that can be applied to all modes of transport" is agreed. This materialized only in July 2008, when the Commission published its Greening Transport Initiatives, a new package to drive the market towards sustainability⁵.

¹ Council Directive 93/89/EEC of 25 October 1993 on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and user charges for the use of certain infrastructures, OJ L 279, 12.11.1993, pp. 32.

² Judgment of 5 July 1995 in Case C-21/94 European Parliament v. Council of the Court of Justice of the European Communities.

³ OJ L 187, 20.7.1999, pp. 42.

⁴ Directive 2006/38/EC of the European Parliament and of the Council of 17 May 2006 amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures.

⁵ see EC 2008a

The proposal to revise the Eurovignette Directive⁶ constitutes a key part of this strategy. It seeks to establish a framework which would enable Member States to calculate and vary tolls according to the air and noise pollution from traffic emissions and peak-hour congestion levels. This is to encourage freight transport operators to buy cleaner vehicles and improve their logistics and route planning. The tolls are to be collected using electronic systems with the revenue being used in projects to alleviate the negative impacts of transport, such as research and development on cleaner and more energy efficient vehicles. The proposal to revise the Eurovignette Directive⁶ constitutes a key part of this strategy. It seeks to establish a framework which would enable Member States to calculate and vary tolls according to the air and noise pollution from traffic emissions and peak-hour congestion levels. This is to encourage freight transport operators to buy cleaner vehicles and improve their logistics and route planning. The tolls are to be collected using electronic systems with any revenue being used in projects to alleviate the negative impacts of transport, such as research and development on cleaner and more energy efficient vehicles. A common method is to be used in toll calculation so that tolls are transparent, proportionate and compatible with the internal market. The package contains besides that the Greening Transport Communication (summarizing the whole package and setting out new initiatives), Greening Transport Inventory (describing EU actions already taken to green transport), Strategy to Internalise the External Costs of Transport (containing a communication and impact assessment texts) and a Communication on rail noise. A methodological tool is also attached to the package⁷.

As is usual, the proposals, especially that of the amendment of the Eurovignette Directive, evoked a strong discussion among stakeholders. Railway stakeholders generally welcomed the principles, on which the Greening Transport Initiatives were based, including the suggestion to use earmarking of revenues to promote the development of more sustainable mobility. They noted, however, that CO₂ and also accident costs were not sufficiently integrated. CO₂ costs, in particular, should have also been included with the model, at least as an option, especially with regard to the fact that the link between CO₂ emissions and climate change is possibly the most important political issue of our time. Proposed setting limits on charges in this generally 'enabling' proposed Directive was also subject to criticism⁸.

Ecology-oriented NGOs, like European Federation Transport & Environment, point to Switzerland as a successful example for charging road freight operators for the environmental and health impacts of their journeys. The scheme started in 2001 and according to T&E, after seven years, it has led to an increase in the efficiency of road transport, highlighted by a 6.4% decrease in the number of kilometres travelled by heavy goods traffic with a simultaneous 16.4% increase in the volume of goods transported. Emissions of particles have also been cut by 10% and nitrogen oxides by 14%. The effect on consumer prices has been 'negligible'⁹.

The other pole of disputation is represented by stakeholders from the road transportation mode. They raised a question whether external costs of each transport mode were correctly defined, assessed and internalized, taking into account internalization through existing taxes and charges. They expressed a belief that the most effective way to pursue was developing

⁶ Proposal for a Directive of the European Parliament and of the Council amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures (EC 2008b)

⁷ Handbook on estimation of external costs in the transport sector, Produced within the study Internalisation Measures and Policies for All external Cost of Transport (IMPACT), Version 1.1, Delft, February 2008 (CE Delft 2008)

⁸ See e.g. Ludewig 2008 or CER, EIM, UNIFE 2008

⁹ T&E 2008

management initiatives to reduce external costs, instead of penalizing companies with higher taxes. As the road transportation mode has a majority share in the freight transport market, internalization with taxes and charges would produce higher prices of transport services and subsequent higher prices of final products for consumers and an inflationary drive. Higher taxes and charges would drain transport companies profits, thus reducing companies' resources for investment in innovation and vehicles park renewal. The final result would be the continuing loss of competitiveness of European products and reduction of the expected GDP growth rate, which would go against the aim of the Lisbon strategy¹⁰.

Also the positions of individual Member States vis-a-vis the Greening Transport package show a relatively high level of difference. While some Member States, especially those exposed to strong road freight transit flows, are in support of a relatively stringent approach, the others, especially those in a border position, are not too much in favour of the compulsory inclusion of external costs into the toll rates. The 'border' states more frequently note that the recent period is not too auspicious to pursue a stricter road transport taxation, when the economic situation in the road transport sector is relatively depressed, stricken by high prices of oil products and developing economic recession. Other comments concern the network extension of tolling systems and also earmarking of road toll revenue directly into measures reducing adverse effects of road transport. Transport ministers, meeting in La Rochelle on 1-2 September 2008 for an informal session, also showed some reserve towards Commission proposals. French Transport Minister Dominique Bussereau said after the meeting the agreement was that charges "should rather be optional and that revenues should be allocated as European states want them to be"¹¹. All in all, it seems that the discussion on the amendment of the Eurovignette Directive will take more time and to draw a compromise solution will not be an easy task.

Another proposal in the Commission's green transport package includes plans to reduce noise emissions from rail, which it says represent "one of the most widespread public health threats in industrialised countries...with about 10% of the population exposed to noise levels above the threshold for 'serious annoyance'."¹² Under the foreseen rules, all wagons with a remaining lifetime of at least five years would have to be equipped with low-noise brakes by 2014. Railways using silent wagons rather than noisy ones would have to pay fewer track access charges. This proposal will, without any doubt, bring a more demanding environment for rail freight operators, in investment into appropriate rolling stock in particular. The Commission's activities comprise of also positive measures aimed at the development of the rail freight sector.

Following the opening of the Community's rail freight market as of 1 January 2007, the discussion concentrates in creating more favourable conditions for the rail freight business. It should be mentioned, inter alia:

- **Communication from the Commission - Freight Transport Logistics Action Plan (EC 2007a)** - an initiative with actions directed towards achieving a better utilization of transport infrastructure, an improved cross-border management of freight flows (e-Freight and utilizing Intelligent Transport Systems), a better integration of transport modes and the reduction of fiction costs affecting intermodal transport, with more emphasis on quality criteria in modal choices and higher competence levels, mobility and attractiveness of the logistics professions.

¹⁰ See e.g. ECG 2008

¹¹ www.euractiv.com/en/transport/transport-ministers-back-optional-road-tolls/article-175058

¹² http://ec.europa.eu/transport/greening/doc/rail/2008_07_greening_transport_rail_noise_communication_en.pdf

- **Communication from the Commission to the Council and the European Parliament - Towards a rail network giving priority to freight (EC 2007b)** – an initiative aimed at promoting the creation of a strong European rail network which would offer a better quality of service in freight transport than today in terms of journey times, reliability and capacity. The network is derived from the corridors identified as having priority for the deployment of ERTMS or defined in the framework of European research projects (Eufranet, Trend, Reorient and New Opera).
- **Communication from the Commission to the Council and the European Parliament on monitoring development of the rail market (EC 2007c)** – an analytical document focusing on the regulatory and institutional framework created with a view to liberalizing the rail market and strengthening the position of railways as a safe and environmentally friendly mode of transport.

On the other hand, the Commission had to shelve its legislative proposal tabled in 2004 on the duality of rail freight services. The proposal, which had been frozen for the past two years, obliged rail companies to include quality requirements in contracts with customers (e.g. on punctuality) and set financial compensation due in cases of failing to meet the requirements. The text met with hostility from more stakeholders, as it was considered to undermine contractual freedom and imply disproportionate costs.

2 GOVERNMENTS' PROVISIONS FOR INVESTMENT IN RAIL INFRASTRUCTURE

The Commission recently declared the need of freight corridor structures helping to optimize the use of financial resources for the purposes of investment, simplify administrative and technical procedures at borders, ensure better continuity of service by the infrastructure across the Member States, and generally offer an easy-access service to international rail freight operators. Considering this, the Commission intends to propose a legal definition of a freight-oriented corridor structure, in particular setting down the main rules applying to this type of corridor and to encourage Member States and infrastructure managers to create transnational freight-oriented corridors¹³.

Simultaneously, individual Member States alone or in cooperation with other interested partners undertake actions improving the existing rail infrastructure.

One of pioneering actions with European importance took place when the transport ministers of Italy, Switzerland, Germany and the Netherlands signed a Memorandum of Understanding in 2003 for the development of a rail corridor between Rotterdam in the Netherlands and Milano in Italy. In 2004, the decision was taken to extend this corridor to Genova, Italy. On the basis of the Memorandum, an action plan has been elaborated to implement measures allowing for an improvement in the quality of rail transport on this corridor¹⁴. The Rotterdam – Genova line became one of the most important European freight axes with a differentiated structure of both competing and cooperating rail freight operators.

In 1992, the German and Dutch governments signed the Verdrag van Warnemünde, a treaty on enhancing rail traffic, especially on the tracks from Amsterdam and Rotterdam to Duisburg. Work on the Dutch part of the track began in 1998. Widely known as the Betuweroute or Betuwe Line, it was opened in June 2007, connecting Rotterdam 160 kilometres to the German border. The cost of construction was 4.7 billion EUR.

¹³ EC 2007b, pp. 9

¹⁴ See IQ-C 2006



Figure 1: Indication of the rail-freight oriented network/ Source: EC 2007b

Nevertheless, the German part of the link still remains incomplete and the full reconstruction of the section is expected for 2015.

The following infrastructure projects in execution or preparation should serve as only a very selective and incomplete set of examples of governments' efforts to improve conditions for both national and international rail transport network. They are sometimes at the top of cutting-edge technology and generally designed to host both freight and passenger rail transportation (sometimes express freight trains):

Austria: Graz – Klagenfurt (Koralmbahn) – The Koralmbahn is an extension of the former European Corridor VI and a part of internationally important axis Gdańsk – Warszawa – Wien – Trieste – Venezia and Bologna, linking the Baltic and Mediterranean seas. Within Austria, it considerably improves the connection between Bundesländer Carinthia and Styria. A part of its ca. 130 km length 33 km is formed by the new Koralmtunnel. Commenced in 1999, the Koralmbahn should be set into operation in individual parts during 2014 – 2018. The proposed speed of the line is 200 km/h¹⁵.

Germany: Extended and newly constructed Karlsruhe – Basel Line – The extension and new construction of the Karlsruhe – Basel Line is part of an ambitious “programme for the future” ProNetz and at the same time a core part of the already mentioned freight corridor Rotterdam - Genova. The line is projected as quadruple-track and should serve both for international and interregional transport. The project is being accomplished by sections and will be connected to other new investments like the Betuweroute, the already completed Lötschberg-Basistunnel and the prepared Gotthard-Basistunnel in Switzerland. New sections of the line will allow maximum speed of 250 km/h. The total investment amounts to about 4.5 billion EUR¹⁶.

Germany: Berlin – Frankfurt (Oder) – The section in question is part of the European transport axis Paris – Berlin – Warszawa and is to be modernized to the speed of 160 km/h by 2013. The modernization comprises superstructure, substructure, bridges and electronic interlocking and signalling systems. The total investment is about 565 million EUR.

France: Lyon – Torino rail link – The Lyon–Torino project has two key aims: to develop high speed passenger rail services and to provide a freight link capable of transporting tens of millions of tons of merchandise across the Alps under the safest possible conditions and in full respect of the environment. The main portion of the future rail link will be composed of a 52 km long “base” tunnel crossing the border between the two countries. The project should enable freight trains to travel with a speed 120 to 140 km/h. The expected term of completion is about 2020¹⁷.

Italy: Torino – Milano – Napoli – Salerno rail axis – The link is part of the Italian “Rete Alta Velocità – Alta Capacità” (High Speed – High Capacity Network) and constitutes a central spine of the entire Italian rail system. With its length of 1,250 km, it is designed to serve both high-speed and capacity freight trains. It is set into operation by sections (finished are e.g. lines Roma - Napoli, Torino - Novara and Napoli-Salerno) and its full completion is expected at the end of 2009¹⁸.

The striking and decade-lasting difference in quality of rail infrastructure between the ‘old’ and ‘new’ Member States is being gradually covered by the help of the Cohesion Fund and Structural Funds (European Regional Development Fund, ERDF). One of two items eligible to be supported from the Cohesion Funds with a total sum of 62.99 billion EUR are transport infrastructure projects establishing or developing transport infrastructure

¹⁵ http://www.oebb.at/bau/de/Projekte_Planung_und_Bau/PontebbanaachseSuedbahn/Koralmbahn/index.jsp

¹⁶ http://www.db.de/site/bahn/de/unternehmen/bahnwelt/bauprojekte/ausbau__neubau/ausbau__neubau.html

¹⁷ http://www.rff.fr/pages/projets/fiche_projet.asp?code=654&lg=en ;

http://www.ltf-sas.com/pages/articles.php?art_id=349

¹⁸ <http://www.rfi.it/cms/v/index.jsp?vgnextoid=e4ae8c3e13e0a110VgnVCM10000080a3e90aRCRD>

as identified in the Trans-European Transport Network (TEN) guidelines. The ERDF supports rail infrastructure programmes within the Convergence Objective with an allocated total budget of 177.8 billion EUR.

One example of the projects supported by EU funds in the 'new' EU countries is the **Praha – Beroun railway tunnel in Czechia**. According to the existing plans the tunnel is to be 25 km long and is designed both for passenger and freight trains. The tunnel is projected for the speed of 300 km/h. The construction is to begin in 2010 or 2011 and the first trains are to travel through the tunnel in 2016.

The above examples and others are witness to the fact that national governments as well as the European Commission, understand both the existing and future role of rail freight transport within the sustainable transport concept. The extension and reconstruction of the European rail network, however, is a long lasting and never ending process.

3 HOW DO TRANSPORTATION POLICY MAKERS NEED TO REVISE THEIR STRATEGIES TO SATISFY EC GOALS?

This part of the topic could be divided into two separate, but still interdependent parts:

- What is to be done in the relationship between rail and other transport markets, road in particular?
- What is to be done within the railway market itself?

Ad 1. What is to be done in the relationship between rail and other transport markets

The Commission presented a review of the White Paper in June 2006, which stated that the 2001 objectives were still relevant but that, over the last five years, the context of defining Europe's transport policy had changed:

- Enlargement: whereas the EU-15 are suffering from congestion and pollution, accessibility remains the real problem for the EU-10.
- Globalization is accelerating, further challenging Europe's competitiveness and economic growth.
- Oil prices have increased dramatically.
- The Kyoto Protocol came into force, generating emission reduction commitments for Europe.
- Transport networks experienced particularly deadly terrorist attacks.
- In order to adapt to these changes, the Commission proposes a number of new tools to achieve its objective of sustainable transport:

The focus has been shifted towards 'co-modality' - or the optimized use of all modes of transport – rather than 'intermodality'. Co-modality can be achieved by facilitating the passage from one transport mode to another via the harmonization of standards and the integration of the various transport modes into efficient logistics chains. This will be the aim of a Commission logistics action plan to be adopted in 2007.

The proposed Greening Transport Initiatives package, as stated above, is to drive the market towards sustainability. It is in the interest of rail operators to pursue that the utilization of funds collected by the extending toll systems be obligatorily used for developing sustainable transport, even if it is attainable at a European level only in the medium or long term. Nevertheless, individual Member States may, and even should progress in this respect by themselves, creating individual rules enabling that growing toll revenue and sustainable transport and environmental protection expense go hand in hand.

It is necessary that national policy makers give a proper response to the Communication from the Commission Freight Transport Logistics Action Plan, as the freight transport logistics is one of the drivers of European competitiveness and thus a prime contributor to the renewed Lisbon agenda on growth and jobs. More cooperation is needed in aligning

insufficient standardization and conflicting national legal requirements hampering the introduction of advanced information and communication technologies (e-Freight). International cooperation is needed in removing freight transport and logistics bottlenecks and in developing and integrating the European network of intermodal terminals and public logistic centres. A key objective is to ease the access to logistic facilities and processes for small and medium enterprises (SME), which can considerably strengthen their competitiveness, and thus the robustness of the European market as a whole.

Another European concept to be followed is the 'green' transport corridors for freight¹⁹. They are to complement short sea shipping, rail, inland waterways and road each other to enable the choice of environmentally friendly transport. They are to be equipped with adequate transshipment facilities (seaports, inland ports, marshalling yards, other relevant logistics terminals etc.) and with supply points initially for biofuels and, later, for other forms of green propulsion. A number of initiatives are coming together to promote this objective, including the freight-oriented railway network, motorways of the sea and NAIADES. Account should be taken of the opportunities offered by the TEN-T guidelines on the development and the integration of multimodal transport chains. Open and nondiscriminatory access for operators and customers of these facilities should be ensured in accordance with the rules of the Treaty.

Ad 2. What is to be done within the railway market itself

From many points it is obvious that more speed in opening the European rail freight market is needed to improve the competitive position of rail freight vis-a-vis other transport modes, especially road. Rail freight should be able to regain and extend its market position also 'by its own force'. Even if it can be admitted that rail freight is from the moment of liberalization of its market in a better competition position in relation to road than rail passenger transport, still many shortcomings prevail.

This assessment is supported e.g. by the report of the Rail Freight Group²⁰, where it is stated that the main problems facing rail freight in much of Europe is the lack of service quality and competitive prices relative to the main competitor, road freight. According to the report, experience in the UK has demonstrated that success and growth can be achieved with competition above rail. This was the intention behind the existing railway packages but, unfortunately, they have not been implemented fairly or comprehensively in all Member States. A very comprehensive description of European rail freight market failures with respective recommendations are also contained in a report jointly issued by EIM, ERFA and ERFCP²¹ and in the Railimplement study by Steer Davies Gleave²².

One of typical problems is the situation with locomotives. The approval of freight locomotives is still a time-consuming process with uneven results among Member States²⁰. New entrants also have problems with obtaining price-accessible used rolling stock, which is monopolized by original owners, often excluded for use in the State of origin by tying contracts with buyers and sometimes wastefully destroyed in incumbent companies, even if it could be able to serve for some time²³. The result is that a secondary locomotive market in Europe is very limited and cannot meet the existing demand.

Existing obstacles for new entrants to the rail freight market have a very severe impact especially in the 'new' EU countries, as they hinder the access of private investment to the industry, essential in conditions when the governments are lacking funds to improve

¹⁹ EC 2007a, pp. 12

²⁰ RFG 2004

²¹ EIM, ERFA, ERFCP 2006, pp. 7-12

²² Steer Davies Gleave 2005

²³ *ibid.*, pp. 4, 31-32

the rolling stock of incumbent state rail systems and the share of rail in the respective freight transport markets continuously declines. The absence of an effective European programme to support the renewal of rail rolling stock in the 'new' Member States also feels very detrimental.

The position of rail freight can also be impaired by the existence of holding structures of the incumbent rail undertakings, as there may be more forms of implicit or concealed cross-subsidization in favour of passenger transportation. This cross-subsidization may acquire forms of locomotive²⁴ or operational facility pooling or merely of specific investment split and operational profit distribution decisions in the headquarters of the holding. In the road freight industry such structures combining freight and passenger transport are very rare, and so this cross-financing effect may also be. Another cross-subsidization may be hidden in national infrastructure price rates for passenger and freight rail transport, and is very hard to prove, as the real separation of accounts for passenger and goods transport in holding structures, which might serve as a proof for the rates, may be for the same reasons subject to doubt.

The European Commission stated in its report on the implementation of the First Railway Package²⁵ based on the analysis contained in the already mentioned Railimplement study that the directives of the First Rail Package are still having an unequal effect in practice from one Member State to another, and have not led to the arrival of new entrants in all the Member States. Uneven and sometimes doubtful implementation of EU railway packages prompted the Commission to repeatedly open infringement procedures against individual Member States²⁶. Recently, the Commission issued a press release calling on Member States to ensure correct implementation of the First Rail Package²⁷. Simultaneously, a formal notice was issued on opening new infringement procedures against 24 Member States for the failure to implement the First Railway Package legislation properly. The Commission mainly noted shortcomings such as lack of independence of the infrastructure manager in relation to railway operators, insufficient implementation of the rules of the Directive on track access charging, and the failure to set up an independent Regulatory Body with strong powers to rezeedy competition problems in the railway sector.

It is natural that incumbent rail companies, still mostly state-owned undertakings, give more preference to seeking protection from intramodal competition than to pursuing market development of the European rail industry as a whole. More serious are problems embedded in the position of national governments.

The governments are required to act as independent legislators and regulators promoting the development of national rail markets and guarantors of non-discriminatory treatment to the rail operators and their free access to the rail infrastructure, facilities and funds. But they typically find themselves in two relationships with a conflict of interest. In the first of them, they execute an ownership role in incumbent rail holding and company structures and are directly or indirectly responsible for their financial performance and social stability. Enhanced competition might get the incumbents into economic and social trouble. This situation never occurs in road freight where the governments typically do not have a special attitude to individual operators. In the second conflict of interest, governments are responsible for social stability and employment in the sector of domestic producers of rail equipment, sometimes very extensive and important. The situation sometimes resembles

²⁴ *ibid.*, pp. 83

²⁵ EC 2006, pp. 5

²⁶ A comprehensive overview of infringement procedures on the First and Second Rail Packages until 2007 see in EC 2007d, pp. 36-44 (Annex 3)

²⁷ <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1031&format=HTML&aged=0&language=EN&guiLanguage=en>

a tacit alliance between the government, incumbent rail operator and domestic producers aimed at supplies of domestic products. Such an alliance can hardly be found with other rail operators, and is impossible in the road freight sector with its free market of trucks and other equipment. One of main themes for the future is how to ensure that these conflicts of interests can be overcome.

The main recommendations to improve the implementation of the First Railway Package summed up in the report by EIM, ERFA and ERFCP²¹ are as follows:

- A strong and independent regulatory body
- A transparent system for the application and delivery of licence
- Necessary setting up of a single point of contact and transparent procedures to get safety certificates
- *De jure* and *de facto* independence of homologation body
- Further harmonization on the level and structure of charges for freight traffic, as well as on the
- methodologies used for calculating infrastructure cost elements
- Create a public one-stop-shop for new entrants where all information and in particular, those facilitating cross-border traffic can be found
- Better scrutiny of State aid and the potential market distortions that may follow

The cure of existing shortcomings in the rail freight market is not simple and requires a clear strategy in individual Member States, as well as further devoted, legislative initiatives, even when difficult, on the part of European Commission.

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