

Refonte du premier paquet ferroviaire

Propositions d'amendements UTP

- Champ d'application de la directive

Article 2.1

1. Chapter II **does not** apply to railway undertakings which **only** operate **urban, suburban or regional services**.

This directive shall apply to railway undertakings operating domestic and international rail services to the exception of other track-based modes such as metro or tramway and to the exception of local and regional stand-alone railway services.

Justification

Chapter II relates to the separation of the accounts, the access to rail related services, etc. and a number of Sections that should remain applicable to railway undertakings operating urban, suburban or regional services (to the exclusion of light rail services), should not be excluded from the scope of the directive, as it would notably create discrimination on access to related services.

This is particularly the case for sections relating to management independence, separation of infrastructure management and transport operations and of different types of transport operations, to requirements for sound financial situation, to access to railway infrastructure and services and monitoring tasks of the European Commission.

Specific exemptions should be included per section in line with existing legislation. (*scope of directive 2001/14*).

Article 2.2

2. Member States may exclude the following from the application of Chapter III :

(a) undertakings which only operate rail passenger services on local and regional stand-alone railway infrastructure;

(b) railway undertakings which only operate urban or suburban rail passenger services;

(c) railway undertakings which only operate regional rail freight services;

(d) undertakings which only operate freight services on privately owned railway infrastructure that exists solely for use by the infrastructure owner for its own freight operations.

2. Member States may exclude the following from the application of Chapter III :

a) undertakings which only operate rail passenger or **freight** services on local and regional stand-alone railway infrastructure;

b) railway undertakings which only operate urban or suburban rail passenger services **on networks which are only used by one railway undertaking that is not covered under paragraph 1 until capacity on that network is requested by another applicant in addition to this railway undertaking;**

c) railway undertakings which only operate regional rail freight services **on networks which are only used by one railway undertaking that is not covered under paragraph 1 until capacity on that network is requested by another applicant in addition to this railway undertaking;**

(d) undertakings which only operate freight services on privately owned railway infrastructure that exists solely for use by the infrastructure owner for its own freight operations.

Justification

Chapter III relates to the licence, the insurances, etc. and should not be excluded from the scope of the directive.

UTP believes that the exemptions set in directive 2001/14 (article 1.3) are more adapted to the creation of a single European rail market.

UTP proposes to introduce some additional modifications:

- Under (a): to extend the potential exemption to freight services operated on a standalone network.
- Under (b): Clarification of the regional passenger network, which can be exempted. If a company is operating alone on a standalone network, it could make sense to exempt it from the application of Chapter III in order to limit its administrative and other costs. However, if an applicant expresses interest for the service it means that it is likely to be opened to competition. In such case, it should be submitted to the provisions of Chapter III.
- Under (c): the proposed addition is necessary to make sure that the railway undertaking operating only regional services is submitted to insurance provisions, for example.

UTP believes that light rail should not be covered by the proposal of recast.

Article 2.3

Member States may exclude the following from the application of Chapter IV:

- (a) local and regional stand-alone networks for passenger services on railway infrastructure;
- (b) networks intended only for the operation of urban or suburban rail passenger services;
- (c) regional networks which are used for regional freight services solely by a railway undertaking that is not covered under paragraph 1 until capacity on that network is requested by another applicant;
- (d) privately owned railway infrastructure that exists solely for use by the infrastructure owner for its own freight operations;
- (e) transport operations in the form of railway services which are carried out in transit through the Union.

Member States may exclude the following from the application of Chapter IV:

- (a) local and regional stand-alone networks for passenger services on railway infrastructure **and the railway undertakings operating trains on them;**
- b) networks **which are used** only for the operation of urban or suburban rail passenger services **and solely by one railway undertaking that is not covered under paragraph 1 until capacity on that network is requested by another applicant in addition to railway undertaking;**
- (c) regional networks which are used for regional freight services solely by a railway undertaking that is not covered under paragraph 1 until capacity on that network is requested by another applicant;
- (d) privately owned railway infrastructure that exists solely for use by the infrastructure owner for its own freight operations **and the railway undertaking concerned;**
- (e) transport operations in the form of railway services which are carried out in transit through the Union.

Justification

Chapter IV relates to the infrastructures and services charges, the allocation of infrastructure capacity and the regulatory body. and should not be excluded from the scope of the directive.

UTP believes that the exemptions set in directive 2001/14 (article 1.3) are more adapted to the creation of a single European rail market.

UTP proposes to introduce some additional modifications:

- Under (a): to extend the potential exemption to freight services operated on a standalone network.
- Under (b): Clarification of the regional passenger network, which can be exempted. If a company is operating alone on a standalone network, it could make sense to exempt it from the application of Chapter III in order to limit its administrative and other costs. However, if an applicant expresses interest for the service it means that it is likely to be opened to competition. In such case, it should be submitted to the provisions of Chapter III.
- Under (c): the proposed addition is necessary to make sure that the railway undertaking operating only regional services is submitted to insurance provisions, for example.

UTP believes that light rail should not be covered by the proposal of recast.

- **Unbundling**

| Article 6.2 | |
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| <p>Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure and transport services shall be managed by separate entities.</p> | <p>Member States shall provide that the infrastructure and transport services are managed by separate entities without any financial or management link.</p> |
| Justification | |
| <p>La volonté de l'Union Européenne de jeter les bases saines d'un marché ferroviaire européen concurrentiel s'est traduite, depuis 1991, par l'affirmation de la nécessaire séparation de l'infrastructure et de son exploitation. En effet, sans séparation patrimoniale totale et indiscutable entre la gestion de l'infrastructure d'une part, et l'exploitation par les entreprises proposant des services ferroviaires sur cette même infrastructure d'autre part, l'Union européenne se priverait pendant longtemps de toute capacité :</p> <ul style="list-style-type: none"> - à construire un espace ferroviaire européen (un réseau transnational d'infrastructure) ; - à mettre en place un modèle économique sain et durable pour le système ferroviaire ; - à garantir un marché concurrentiel, ouvert, non discriminatoire pour l'ensemble des entreprises ferroviaires (qu'elles soient locales, régionales, nationales ou européennes). <p>Construire un espace ferroviaire européen</p> <p>L'Europe aura réussi à construire un espace ferroviaire vraiment européen lorsque les entreprises ferroviaires ne seront plus pénalisées lors du passage d'une frontière en termes de perte de temps et de compétitivité, par rapport leurs concurrents routiers et aériens.</p> <p>La faible interopérabilité des réseaux et le cloisonnement des espaces ferroviaires nationaux constituent de nombreux obstacles pour les entreprises ferroviaires souhaitant développer leurs activités. Outre les nombreuses difficultés posées déjà par l'homologation du matériel roulant, les normes de sécurité, la reconnaissance mutuelle des licences et des certificats d'exploitation, le premier obstacle des entreprises ferroviaires est d'accéder aux sillons.</p> <p>Le fort cloisonnement des gestionnaires d'infrastructures nationaux se révèle être un frein aux transports ferroviaires, les intérêts de chacun n'étant pas nécessairement ceux d'un espace européen.</p> <p>Les débats qui ont entouré l'adoption du règlement sur les corridors de fret européens ont montré que l'objectif de construction de ces axes ferroviaires transnationaux n'était soutenu que par les gestionnaires d'infrastructures indépendants de toute entreprise ferroviaire. Cette division au sein des gestionnaires d'infrastructures démontre la nécessité pour la construction d'un espace ferroviaire européen :</p> <ul style="list-style-type: none"> - à court terme, par une indépendance totale des gestionnaires d'infrastructure ; - à moyen et long terme, par une intégration plus forte des gestionnaires d'infrastructure nationaux au niveau européen. <p>Assainir et renforcer le modèle économique des systèmes ferroviaires</p> <p>L'instauration d'un modèle économique sain et durable pour les systèmes ferroviaires est une condition sine qua non de la construction ferroviaire européenne. Ce marché nécessite davantage d'investissements et une meilleure rentabilité des capitaux investis, que l'origine en soit publique ou privée. Cette nécessaire rentabilité doit toutefois être mise au service du réseau, pour tous les opérateurs. Il serait en effet totalement discriminatoire et contre-productif de cumuler une rentabilité accrue du réseau et une captation de la rente de chaque réseau par l'opérateur national pour cause d'absence de séparation totale entre le gestionnaire du réseau et ledit opérateur.</p> <p>La cohésion entre les différents niveaux d'infrastructure ne pourra être pleinement réalisée que par des choix d'investissements et d'affectation des ressources uniquement motivés par une politique impartiale et à long terme du réseau d'infrastructures. Seuls des gestionnaires d'infrastructures ayant vocation à l'efficacité globale de leur réseau et à sa pérennité peuvent agir rationnellement en ce sens. Il en résulte donc clairement que seule l'indépendance totale, juridique et patrimoniale des gestionnaires d'infrastructures peut garantir un comportement économiquement rationnel et indiscutable, tant les décisions en matière de fixation des péages et d'allocation des ressources disponibles pour l'entretien et le développement des réseaux sont fondamentales pour l'équilibre global et durable du système.</p> <p>Garantir un marché concurrentiel, transparent et non-discriminatoire</p> <p>L'indépendance des gestionnaires d'infrastructures permettra également de mettre un terme aux principales pratiques anticoncurrentielles (conflits d'intérêts, favoritisme, distorsion de concurrence, financements croisés ...) dénoncées ces dernières années au sein de l'Union.</p> | |

| Article 7.1 | |
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| <p>Member States shall ensure that the functions determining equitable and non-discriminatory access to infrastructure, listed in Annex II, are entrusted to bodies or firms that do not themselves provide any rail transport services. Regardless of organisational structure, this objective must be shown to have been achieved.</p> | <p>Member States shall take the measures necessary to ensure that the functions determining equitable and non-discriminatory access to infrastructure, listed in Annex II, are fully independent of any undertakings providing rail transport services or of undertakings having control on such undertakings.</p> |
| Justification | |
| <p>Même justification que sous l'article 6.2.</p> | |

- **Facilités essentielles**

| Article 3 NEW | |
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| | <p>'essential facility' means a facility where the following conditions are cumulatively met:</p> <ul style="list-style-type: none"> - the company operating the facility holds a dominant position in the respective market, - The company operating the service facility is technically able to provide access, - the refusal of the facility is likely to eliminate all competition because it is physically or economically impossible to replicate it, - it is indispensable to the operation of an equally efficient railway undertaking, and - there is no objective justification for the refusal to supply the facility. An essential facility may be operated by any company whether infrastructure manager, railway undertaking or any third party. |
| Justification | |
| <p><i>UTP recommends to include a clear definition of 'essential facility' in line with the definition provided by the European Court of Justice over the past decades (see C-7/97 Oscar Bronner v. Mediaprint [1998] ECR I-7791 and subsequent case law). Such a clarification will be in the interest of all stakeholders and avoid any future interpretation problems of the notion. Moreover, this definition makes it clear that different kinds of service providers may develop on the market.</i></p> | |

| Article 13.2 Paragraph 1 | |
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| <p>The services referred to in Annex III, point 2 shall be supplied by all operators of service facilities in a non-discriminatory manner.</p> | <p>Track access to the services referred to in Annex III, point 2 and their use shall be supplied by all operators of service facilities in a non-discriminatory manner in as much as those services are essential facilities as defined under Article 3 (22) NEW.</p> |
| Justification | |
| <p>In the new Commission proposal, the previous term "track access to service facilities" is eliminated, removing the distinction of access to tracks in conjunction to a service facility from the use of the service facilities themselves. This is a fundamental change as it will also have an impact on the charges for access to these facilities (Article 31 (3)). It is UTP's understanding that tracks in conjunction with service facilities will now be excluded from the charging principles related to the "minimum package".</p> <p>Thereby, it will be possible to charge full costs plus a reasonable profit for access to these tracks, for example at passenger stations, freight terminals and marshalling yards, even when the holder of them enjoys a monopoly. This in itself could lead to charges that many railway undertakings cannot afford. It is therefore important to re-introduce the initial wording.</p> <p>Track access to the services referred to in Annex III, point 2 and their use shall be supplied by all operators of service facilities in a non-discriminatory manner in so much as those services are essential facilities as defined</p> | |

under Article 3 (22) NEW. With the introduction of the definition of essential facilities in the recast, the uncertainties included in Directive 2001/14/EC are removed.

Article 13.2, paragraph 3

Requests by railway undertakings for access to the service facility may only be rejected if **there are viable alternatives allowing them to operate the freight or passenger service concerned on the same route under economically acceptable conditions. The burden of proving for the existence of a viable alternative lies with the operator of the service facility.**

Requests by railway undertakings for access to the service facility **set out in Annex III point 2** may only be rejected if viable alternatives **under market conditions exist or whether, upon referral and review, the regulatory body referred to in Article 55 considers that there is a justifiable reason for the service operator to refuse access to the service at stake.**

The service provider shall in any case justify its denial decision.

Justification

The first substantial change is included to clarify that the doctrine of 'essential facility' applies throughout the article.

The second change is to request the regulatory body to review the 'reasonable' character of the denial of access. For example, a denial could be based on the fact that there is no capacity left. The regulatory body will then have to check whether the capacity of the service has been optimized and entirely used or whether it could be better organized so as to offer spare capacity to new entrants. In the latter case, the denial of access will be considered unreasonable and the regulatory body will be in a position to require providing access to third parties.

Article 13.2, paragraph 4

[...]. However newly built maintenance and other technical facilities developed for specific new rolling stock may be reserved to the use of one railway undertaking for a period of five years from the start of their operation.

[...] However, when newly built maintenance and other technical facilities are developed for specific new rolling stock **within the context of a public service contract pursuant to Regulation 1370/2007, their use may be reserved in priority for the contracting railway undertaking for the duration of the contract, as needed for the delivery of operations.**

In other cases, these facilities may be reserved to the use of one railway undertaking for a period of five years from the start of their operation, as needed for their services.

In all cases, any available over capacity should be accessible for any other railway undertaking, under the control of the regulatory body.

Justification

The market for rail related services is in the process of developing and quite some investments in maintenance facilities could (and are already) part of public service contracts (where the contractor has an obligation to build and operate a maintenance shop as part of the contract). It is therefore proposed firstly to allow for reservation of the facility for the duration of the contract to ensure that the contracting undertaking is not prevented from being able to fulfill its contractual obligations.

Furthermore, in those cases that do not fall within the scope of a public service contract, it is proposed to provide only a priority for five years to the operator that has made the investment in building the service facility in question in order to allow for reasonable return on investment and to incite it to make the initial investment. With this addition, the operator/investor has some certainty that he will obtain a reasonable return on investment for those maintenance shops he may wish to build.

Annex III.1

1. The minimum access package shall comprise:
 (a) handling of requests for railway infrastructure capacity;
 (b) the right to utilise capacity which is granted;
 (c) use of running track points and junctions;
 (d) train control including signalling, regulation, dispatching and the communication and provision of information on train movement;
 (e) use of electrical supply equipment for traction current, where available;
(f) refuelling facilities, where available;
(g) all other information required to implement or operate the service for which capacity has been granted.

1. The minimum access package shall comprise:
 (a) handling of requests for railway infrastructure capacity;
 (b) the right to utilise capacity which is granted;
 (c) use of running track points and junctions;
 (d) train control including signalling, **route setting**, regulation, dispatching and the communication and provision of information on train movement;
 (e) use of electrical supply equipment for traction current, where available;
(f) ~~refuelling facilities, where available;~~
 (g) all other information required to implement or operate the service for which capacity has been granted.

Justification

A certain number of changes to the annexes are proposed with a view to reflect more the reality:

- "route setting" should be included in the minimum access package as it is an essential element to be able to provide services.
- 'Refueling facilities' should not be included in the minimum package as these services are already currently proposed on the market in a competitive manner. In other words, these services must be provided where there exists no competition and where they are likely to be considered as an 'essential facility'.

Annex III.2

2. Access **shall also be given** to services facilities and the supply of services in the following facilities shall comprise:

(a) passenger stations, their buildings and other facilities, including ticketing and travel information;
(b) freight terminals;
(c) marshalling yards;
(d) train formation facilities;
(e) storage sidings;
(f) maintenance and other technical facilities;
(g) port facilities which are linked to rail activities;
(h) relief facilities, including towing.

2. Access to services facilities and the supply of services shall comprise:
(a) refuelling facilities, where available;
(b) passenger stations, their buildings and other facilities, including **adequate locations for** ticketing and **access and display of** travel information;
(c) access to freight terminals;
(d) access to marshalling yards;
(e) access to train formation facilities;
(f) storage sidings ;
(g) access to maintenance and other technical facilities, **as well as the maintenance-related replacement' services (as defined in decision 2008/232) that are already provided in these installations;**
(h) port facilities which are linked to rail activities;
(i) evacuation and rescue towing, **to clear the main lines, in the event of disturbance to train movements caused by technical failure or accident.**

Justification

A certain number of changes to the annexes are proposed with a view to reflect more the reality:

(a): "Refuelling facilities" must be provided where there exists no competition and where they are likely to be considered as an 'essential facility'. Amendment in line with the previous one.

- (b): *access to passenger information tools in stations (display panels, personal address systems), should be guaranteed in a non-discriminatory manner to all operators. The same is true for installing ticket machines and sale points in adapted locations. It is the duty of the regulatory body to ensure that these provisions are duly respected.*

'suitable space for ticketing': some language clarifications are proposed to avoid bad interpretation. Adequate 'space' to offer ticketing services must be provided. The same goes with information facilities. However, in the UK, a 'common national ticketing and information system' open to all operators on the market is already in place. It is therefore felt necessary to precise that the provision does not apply to such common systems already in place to avoid that new entrants abuse of this article to set up their own system in parallel to the existing on the market and already open to all operators.

- ©, (d), (e) (g): *il est nécessaire de mentionner la notion d'accès aux équipements mentionnées pour clarifier*
- (g): *Only maintenance-related replacement can be considered as an essential facility. This type of "light" maintenance has been defined in TSI Maintenance (Decision 2008/232 modifying Decision 2002/1946) by the "repair work can be undertaken to allow the safe return of the rolling stock to the agreed maintenance depot".*
- (i): *préciser le dernier point*

Annex III.3

3. Additional services may comprise:

(a) traction current, charges for which shall be shown on the invoices separately from charges for using the electrical supply equipment ;

(b) pre-heating of passenger trains;
(c) supply of fuel, charges for which shall be shown on the invoices separately from charges for using refuelling facilities, shunting, and all other services provided at the access services facilities mentioned above;

(d) tailor-made contracts for:

- control of transport of dangerous goods,
- assistance in running abnormal trains.

4. Ancillary services may comprise:

- (a) access to telecommunication networks;
- (b) provision of supplementary information;
- (c) technical inspection of rolling stock.

3. Additional services may comprise:

(a.1) when a railway undertaking chooses to buy traction current, consumed by its trains, directly to an energy provider (other than the infrastructure manager), additional services may comprise the fees corresponding to the electricity consumption related to both the electricity losses in the infrastructure manager's installations and to the connection of the infrastructure manager's network to the transport and distribution electricity network.

(a.2) when a railway undertaking chooses to buy traction current, consumed by its trains, to the infrastructure manager, additional services may comprise the fees corresponding to the electricity consumption both related to the electricity losses in the infrastructure manager's installations as well as to the connection of the infrastructure manager's network to the transport and distribution electricity network.

The infrastructure manager shall invoice separately the traction current provision from the fees related to the use of the electric alimentation system of the infrastructure manager.

- b) pre-heating of passenger trains;
- c) supply of fuel, charges for which shall be shown on the invoices separately from charges for using refuelling facilities, shunting, and all other services provided at the access services facilities mentioned above;
- d) tailor-made contracts for:

- control of transport of dangerous goods,
- assistance in running abnormal trains.

4. Ancillary services may comprise:

- (a) access to telecommunication networks;
- (b) provision of supplementary information;
- (c) technical inspection of rolling stock.

Justification

The electricity market being open to competition in Europe, railway undertakings should have the choice to prefer another energy provider than the infrastructure manager.

However, the infrastructure manager has to be able to charge fees, proportionate to the railway undertaking electricity consumption, to cover (1) the electricity losses in the infrastructure manager's installations as well as (2) the connection of the infrastructure manager's network to the electricity network.

- **Assurances**

| Article 22 | |
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| Without prejudice to Chapter III of Regulation (EC) No 1371/2007 of the European Parliament and of the Council, a railway undertaking shall be adequately insured for cover, in accordance with national and international law, of its liabilities in the event of accidents, in particular in respect of freight, mail and third parties. | Without prejudice to Chapter III of Regulation (EC) No 1371/2007 of the European Parliament and of the Council, a railway undertaking shall be adequately insured, or make equivalent arrangements for cover, in accordance with national and international law, of its liabilities in the event of accidents, in particular in respect of freight, mail and third parties. |
| <i>Justification</i> | |
| L'UTP considère qu'il est extrêmement important pour les EF effectuant du fret de continuer à avoir la possibilité de s'assurer directement ou de mettre en place toute mesure équivalente, qui permette de garantir une couverture entière des différents risques. Cette possibilité doit rester offerte aux EF dans le cadre d'un marché de l'assurance toujours plus contraint. | |

- **Péages**

| Article 31.3 | |
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| Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the minimum access package shall be set at the cost that is directly incurred as a result of operating the train service, according to Annex VIII, point 1. | Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the minimum access package and track access to service facilities shall be set at the cost that is directly incurred as a result of operating the train service, according to Annex VIII, point 1. Excluding the case detailed in paragraph 5, the infrastructure charges shall not exceed the complete cost of the infrastructure, for each market segment. |
| <i>Justification</i> | |
| <p>Justification: Charging principles for track access should apply in the same way both to the track network and to the track access to essential service facilities in keeping with the doctrine of fair and non-discriminatory access to them. This amendment is necessary to remain consistent with the amendment to Article 13(2).</p> | |

| Article 32.1 | |
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| In order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may, if the market can bear this, levy mark-ups on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimal competitiveness in particular of international rail freight. The charging system shall respect the productivity increases achieved by railway undertakings. | In order to obtain full recovery of the costs incurred by the infrastructure manager for a specific market segment , a Member state may, if that market segment can bear this, levy mark-ups on the basis of efficient transparent and non-discriminatory principles, while guaranteeing optimal competitiveness in particular of international rail freight. The charging system shall respect the productivity increases achieved by railway undertakings. |
| <i>Justification</i> | |
| <p>In line with the Commission's intention, each Member State should make a decision of principle between two possible models. The first model is that rail infrastructure users should pay only the direct cost (the short-run marginal cost). In that model, the Member State must then cover the entirety of the fixed costs of the infrastructure manager. This model is already de facto in application in a small number of Member States.</p> <p>In the second model, the Member State issues a general authorization to the infrastructure manager to seek a higher proportion of cost recovery by applying charges above the level of direct cost. This second model is de facto in application in a majority of Member States. In that model, the infrastructure manager, being closer to the market than the government, should be responsible for setting marks up at the appropriate level, subject to what the market can bear, and without requiring prior approval from the regulatory body. These are standard business decisions – so regulatory intervention should occur in case of a suspected breach of the charging rules, ex post rather than ex ante.</p> | |

Concerning market segments where there is initially no traffic, this amendment clarifies that, while initially the mark-up must be zero, the mark-up could be raised with time if traffic develops on the segment, provided the segment can bear it.

Further details concerning segmentation criteria and concerning the concept of what the market can bear are proposed in UTP's amendment to Annex VIII (3).

Annex VIII.1

Direct costs of the train service referred to in Article 31(3), which are related to infrastructure wear and tear, shall exclude the following items:

- (a) Network-wide overhead costs, including salaries and pensions;
- (b) Interest payable on capital;
- (c) More than one tenth of costs related to scheduling, train path allocation, traffic management, dispatching and signalling of a train run;
- (d) Depreciation of information, communication or telecommunication equipment;
- (e) Costs related to real estate management, in particular acquisition, selling, dismantling, decontamination, recultivation or renting of land or other fixed assets;
- (f) Social services, schools, kindergartens, restaurants;
- (g) Costs related to acts of God, accidents, service disruptions.

When direct costs exceed, on a network-wide average, 35 % of average costs of maintaining, managing and renewing the network calculated on the basis of a train kilometer run, the infrastructure manager shall justify this in detail to the regulatory body. The average costs calculated for this purpose shall exclude cost elements referred to in points (e), (f) or (g).

Direct costs of the train service referred to in Article 31(3), which are related to infrastructure wear and tear, **shall include the variable cost of maintaining and managing and renewing the network at the margin, and exclude any other cost.**

In particular, it shall exclude the following items:

- (a) Network-wide overhead costs, including salaries and pensions;
- (b) Interest payable on capital;
- (c) More than one tenth of costs related to scheduling, train path allocation, traffic management, dispatching and signalling of a train run;
- (d) Depreciation of information, communication or telecommunication equipment;
- (e) Costs related to real estate management, in particular acquisition, selling, dismantling, decontamination, recultivation or renting of land or other fixed assets;
- (f) Social services, schools, kindergartens, restaurants;
- (g) Costs related to acts of God, accidents, service disruptions.

The infrastructure manager shall submit to the regulatory body the calculus of the direct cost, for both a conformity check and an opinion. When direct costs exceed, on a network wide average, 35% of the average costs of maintaining, managing and renewing the network calculated on the basis of a train kilometre run, the infrastructure manager shall justify this in detail to the regulatory body. The average costs calculated for this purpose shall exclude cost elements referred to in points (e), (f) or (g).

Justification

UTP welcomes the Commission's proposal which seeks to bring direct cost closer to the economic concept of short-run marginal cost. UTP only recommends deleting point c, given that the costs mentioned under that point do vary with traffic volumes, and are therefore part of short-run marginal cost (so they should not be excluded).

Annex VIII.3

The infrastructure manager shall demonstrate to the regulatory body the ability of a train service to pay mark-ups according to Article 32(1), whereby each of the services listed under a single one of the following points shall belong to **different** market segments:

- (a) Passenger vs freight services;
- (b) Trains carrying dangerous goods vs other freight trains;
- (c) Domestic vs international services;
- (d) Combined transport vs direct trains;
- (e) Urban or regional vs interurban passenger services;

The infrastructure manager shall demonstrate to the regulatory body the ability of a train service to pay mark-ups according to Article 32(1).

Homogeneous market segment shall be defined by the regulatory body on the basis of proposals from both railway undertakings and infrastructure managers.

The regulatory body may define additional market segments, using any of the following criteria:

- (a) Passenger vs freight services;

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| <p>(f) Block trains vs single wagon load trains; (g) Regular vs occasional train services.</p> | <p>(b) Trains carrying dangerous goods vs other freight trains; (c) Domestic vs international services; (d) Combined transport vs direct trains; (e) services under public service contracts vs open access (f) Block trains vs single wagon load trains; (g) Regular vs occasional train services. (h) high speed vs conventional services</p> |
| <p style="text-align: center;">Justification</p> <p>UTP objects to the market segmentation criteria (a to g) proposed by the Commission given that they are supposed to be mandatory. Other criteria may be more relevant than some of the proposed criteria depending on market realities. Instead, UTP advocates laying out general principles that should be applied, rather than prescribing points of detail which may or may not be appropriate in individual cases.</p> <p>In particular, market segments should be homogeneous, and infrastructure managers should base their segmentation on a study of the market and a consultation of railway undertakings. However, the list proposed by the Commission may be kept provided it is only indicative.</p> <p>The amendment also clarifies that the infrastructure manager is responsible for setting the level of the mark-up for each individual segment. However, the mark-ups must be such that the respective segments can bear the total level of the charge in keeping with Article 32(1).</p> <p>What the market segment can bear should be measured based on the segment's relative performance in terms of traffic volume. The test of whether a mark-up is at an appropriate level should refer to whichever market is most relevant to the rail segment in question in terms of competition, subject to data availability.</p> <p>The relevant market will often be the road sector or the aviation sector (or segments thereof), within the same Member State. However UTP stresses the fact that, in some cases, the most relevant competing market can be in another country, including third countries, and can be in any mode of transport, including rail in another country.</p> | |

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| <p>Amendment Recital 57</p> | |
| <p>The overall level of cost recovery through infrastructure charges affects the necessary level of government contribution; Member States may require different levels of overall cost recovery. However, any infrastructure charging scheme should allow traffic which can at least pay for the additional cost which it imposes to use the rail network.</p> | <p>The overall level of cost recovery through infrastructure charges affects the necessary level of government contribution; Member States may require different levels of overall cost recovery. However, any infrastructure charging scheme shall allow traffic which can at least pay for the additional cost which it imposes to use the rail network.</p> |
| <p style="text-align: center;">Justification</p> <p><i>This statement should be reinforced to be in full consistency with articles 31 and 32, which indicates that the track access charges should be fixed on direct costs, and mark-up are an "exception to charging principle" (titre of article 32) and can only be applied "if the market can bear it" (article 32.1).</i></p> | |

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| <p>Article 36</p> | |
| <p>Reservation charges</p> <p>Infrastructure managers may levy an appropriate charge for capacity that is allocated but not used. This charge shall provide incentives for efficient use of capacity. If there is more than one applicant for a train path to be allocated under the annual timetable exercise, a reservation charge shall be levied.</p> | <p>Reservation charges</p> <p>Infrastructure managers may levy an appropriate charge for capacity that is allocated but not used. This charge shall provide incentives for efficient use of capacity. If there is more than one applicant for a train path to be allocated under the annual timetable exercise, a reservation charge shall be levied.</p> |
| <p style="text-align: center;">Justification</p> <p>L'UTP préconise la suppression du droit de réservation des capacités lorsque plusieurs candidats en</p> | |

font la demande qui est prévu à l'article 36. En effet, la mise en œuvre opérationnelle d'une telle disposition s'avèrerait très difficile et pourrait fragiliser l'ensemble du système d'allocation des sillons. Il serait en outre quasiment impossible pour les EF d'obtenir des garanties sur la bonne mise en œuvre de cette disposition, qui pourrait par ailleurs venir alourdir un système déjà complexe.

- **Péages – Bruit**

Annex VIII.2

Noise-differentiated infrastructure charges referred to in Article 31(5) shall meet the following requirements:

- (a) The charge shall be differentiated to reflect the composition of a train of vehicles respecting limit values for noise set by Commission Decision 2006/66/EC19 (TSI Noise).
- (b) Priority shall be given to freight wagons.
- (c) Differentiation according to the noise emission levels of freight wagons shall allow the payback of investments within a reasonable period for retrofitting wagons with the most economically viable low-noise braking technology available.

Noise-differentiated infrastructure charges referred to in Article 31(5) shall meet the following requirements:

- (a) The charge shall be differentiated to reflect the composition of a train of vehicles respecting limit values for noise set by Commission Decision 2006/66/EC19 (TSI Noise).
- (b) Priority shall be given to freight wagons.
- (c) Differentiation according to the noise emission levels of freight wagons shall allow the payback of investments within a reasonable period for retrofitting wagons with the most economically viable low-noise braking technology available **and the extra costs during the vehicle remaining lifespan.**

Justification

This amendment aims to take into account the duration of life of the rolling stock.

Article 31.5 (paragraph 1)

5. When charging for the cost of noise effects is allowed by Union legislation for **road freight** transport, the infrastructure charges shall be modified to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

Annex VIII, point 2 may be amended in the light of experience, in accordance with the procedure referred to in Article 60, in particular to specify the elements of differentiated infrastructure charges.

5. When charging for the cost of noise effects is allowed by Union legislation for **other transport modes**, the infrastructure charges shall be modified **to allow the internalisation** of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

The binding retrofitting of wagons at a reasonable cost presupposes the resolution of the existing technical obstacles.

Any reduction of the infrastructure charge shall be financed by public authorities and shall not result in an increase of track access of charges for a period of at least 10 years, after the beginning of a binding EU-wide retrofitting.

Annex VIII, point 2 may be amended in the light of experience, in accordance with the procedure referred to in Article 60, in particular to specify the elements of differentiated infrastructure charges.

Justification

The legislation on road charging that is currently under consideration explicitly allows, but does not mandate, internalisation of external costs for the road sector.

This means that different Member States will internalise different external costs from different starting dates, if they internalise them at all.

This amendment ensures that the rail sector shall internalise the same external costs that the road sector internalises as soon as this is mandated across the Union for the road sector.

Specifically concerning noise, UTP supports the Commission's proposal to incentivise retro-fitting of rolling stock in favour of less noisy equipment in line with the criteria proposed in Annex VIII (2). However, as the incentive is designed to encourage a specific type of rolling stock expenditure, UTP asks that the reduction in charges be revenue-neutral for infrastructure managers and that compensatory increases in the rest of the charging structure be ruled.

- Péages - ERTMS

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| Article 32.3 NEW | |
| | <i>The condition for the set-up of a bonus scheme for ERTMS is conditioned to the availability of a unified ERTMS version. Any temporary reduction of the infrastructure charge shall be financed by public authorities and shall not result in an increase of other types of charges.</i> |
| Justification | |
| Signalling systems manufacturers shall develop, and Infrastructure Managers and Railway Undertakings shall install, an interoperable CCS-TSI-compliant version of the European Train Control System (ETCS). | |
| The amendment ensures that Member States finance temporary reductions in track access charges in order to incentivise railway undertakings to adopt the European Train Control System (ETCS). | |

- Péages – Prévisibilité des niveaux de péages

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| Article 8.1 | |
| Member States shall take the measures necessary to develop their national railway infrastructure by taking into account, where necessary the general needs of the European Union. For this purpose, they shall publish at latest two year after the entry into force of this Directive a rail infrastructure development strategy with a view to meeting future mobility needs based on sound and sustainable financing of the railway system. It shall cover a period of at least five years and be renewable. | Member States shall take the measures necessary to develop their national railway infrastructure by taking into account, where necessary the general needs of the European Union. For this purpose, they shall publish at latest two year after the entry into force of this Directive a rail infrastructure development strategy with a view to meeting future mobility needs based on sound and sustainable financing of the railway system, <i>including the forecasts of track access charges' levels.</i> It shall cover a period of at least five years and be renewable. |
| Justification | |
| Member States sharing borders with third countries can see an interest in collaborating with the neighboring country when putting together the infrastructure development strategy. This is in the interest of all stakeholders. | |

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| Article 30.2 | |
| Member States shall ensure that paragraph 1 is implemented through a contractual agreement between the competent authority and the infrastructure manager covering a period of not less than five years which provides for State funding | Member States shall ensure that the provision set out in paragraph 1 is implemented through a contractual agreement between the competent authority and the infrastructure manager covering a period of not less than five years which provides State funding <i>and indicate the forecast of track access charges' levels.</i> |
| Justification | |
| Paragraph 2 should contain a clarification that the envisaged revised rules shall not apply to contractual agreements already in place when the Directive enters into force. This is required for the infrastructure operators' planning certainty. The new requirements should only have to be implemented in a follow-up agreement. | |

Article 30.3 (paragraphe 7 NEW)

Multi-annual contracts can only be revised before the ending of the contract, with the assent of the regulatory body. The regulatory body shall verify the necessity and urgency of the revision, verify the financial architecture of the new contract. Member States shall consult interested parties at least one month before the revision of the agreement is signed and published it one month after concluding it.

Justification

Neuf ans après l'adoption du premier paquet ferroviaire, le financement durable de l'infrastructure, la qualité du service d'infrastructure et les moyens d'obtenir l'amélioration des performances des gestionnaires d'infrastructure sont toujours des motifs de préoccupation. Comme l'a justement souligné la Commission européenne, dans sa communication 2008/54, «la compétitivité du secteur ferroviaire dépend, dans une large mesure, de la disponibilité et de la qualité de l'infrastructure. Toutefois, la maintenance de l'infrastructure ne bénéficie pas toujours de l'attention et des moyens financiers que les entreprises ferroviaires sont en droit d'attendre pour pouvoir concurrencer les autres modes de transport ».

L'UTP considère l'allongement des contrats pluriannuels de 3 à 5 ans comme une avancée fondamentale, permettant d'ajuster la durée de ces contrats aux horizons de temps du secteur.

Afin de garantir une prévisibilité forte de ces contrats, l'UTP propose qu'ils ne puissent être révisés avant le terme du contrat, qu'avec l'autorisation du régulateur. Ce dernier pourrait avoir à considérer deux points : d'abord vérifier l'urgence de la révision (pour maintenir 5 ans comme cadre de référence aux contrats pluriannuels) et de vérifier l'architecture financière du nouveau contrat (afin de ne pas remettre en cause la viabilité des trafics opérant sur la base du précédent contrat, notamment via des augmentations substantielles des niveaux des péages).

L'UTP se réjouit également du fait que le régulateur doive analyser la justesse de l'enveloppe budgétaire sur le moyen et long terme. Cette soumission des contrats pluriannuels à l'avis et aux recommandations du régulateur, comme elle s'exerce en Grande-Bretagne, permettra de vérifier l'adéquation des moyens aux objectifs fixés en matière de performance.

L'UTP considère qu'il est nécessaire de rendre les péages d'infrastructure davantage prévisibles sur le long terme. L'exemple britannique de la « Periodic Review » est intéressant et pourrait être généralisé en Europe, autant sur sa méthode d'élaboration que sur son contenu, puisqu'il fixe le montant des péages pour 5 ans.

Le manque de visibilité à long terme, tant sur le niveau des péages que sur leur structure, fait peser une forte incertitude sur les coûts que les entreprises ferroviaires devront supporter. Dans ces conditions, il est très difficile d'anticiper la rentabilité des investissements en matériel roulant dont la durée de vie est de 30 ans, voire davantage. Le manque de visibilité est donc un frein à l'investissement et au développement du mode ferroviaire. Le risque encouru par les entreprises ferroviaires est encore plus élevé lorsqu'il s'agit de trafic international. En dépit des efforts pour assurer une harmonisation technique, l'aptitude à circuler sur plusieurs réseaux représente un surcoût significatif lors de l'acquisition ou de la transformation de matériel roulant. Sans visibilité sur l'évolution des niveaux de péages, le développement des trafics nationaux et internationaux se situera donc en deçà des attentes du législateur et des citoyens.

• **Confidentialité des données**

Article 29.5

An infrastructure manager shall respect the commercial confidentiality of information provided to it by applicants.

An infrastructure manager shall respect the commercial and **industrial** confidentiality of information provided to it by applicants.

Justification

Il est nécessaire d'inclure le respect de la confidentialité des données commerciales, mais également des données industrielles, qui comme leur logistique doivent être protégées.

| Article 39.2 | |
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| Infrastructure managers and allocation bodies shall respect the commercial confidentiality of information provided to them. | Infrastructure managers and allocation bodies shall respect the commercial and industrial confidentiality of information provided to them. |
| Justification | |
| Il est nécessaire d'inclure le respect de la confidentialité des données commerciales, mais également des données industrielles, qui comme leur logistique doivent être protégées. | |

| Article 42.7 | |
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| While respecting commercial confidentiality, the general nature of each framework agreement shall be made available to any interested party. | While respecting commercial and industrial confidentiality, the general nature of each framework agreement shall be made available to any interested party. |
| Justification | |
| Il est nécessaire d'inclure le respect de la confidentialité des données commerciales, mais également des données industrielles, qui comme leur logistique doivent être protégées. | |

| Article 45.4 | |
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| <p>The infrastructure manager shall, upon request, within a reasonable time and in due time for the coordination process referred to in Article 46, make the following information available free of charge to applicants in written form for review:</p> <ul style="list-style-type: none"> (a) train paths requested by all other applicants on the same routes, (b) train paths allocated to all other applicants and outstanding train paths requests for all other applicants on the same routes, (c) train paths allocated to all other applicants on the same routes as in the previous working timetable, (d) remaining capacity available on the relevant routes, (e) full details of the criteria being used in the capacity allocation process. | <p>The infrastructure manager shall, upon request within a reasonable time and in due time for the coordination process referred to in Article 46, respecting any limits imposed by the treatment of commercially sensitive data, make the following information available free of charge to applicants in written form for review:</p> <ul style="list-style-type: none"> (a) train paths requested by all other applicants on the same routes, (b) train paths allocated to all other applicants and outstanding train paths requests for all other applicants on the same routes, (c) train paths allocated to all other applicants on the same routes as in the previous working timetable, (d) remaining capacity available on the relevant routes, (e) full details of the criteria being used in the capacity allocation process. |
| Justification | |
| <p>Since the development of competition on the market, quite some data has become highly confidential. It is therefore proposed to include a caveat requiring the infrastructure manager not to disclose commercially sensitive information to competitors during the coordination process.</p> <p>In this context, some of the information requests proposed in the Commission proposal cannot be supported as such information mirrors the commercial intentions and strategy of each competitor. Infrastructure managers cannot from a commercial point of view pass information about individual train paths requests by specific railway undertakings to their potential competitors. All necessary information will be provided essentially through (d) under Article 45(4).</p> | |

- Document de référence du réseau

| Article 27.1 | |
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| The network statement shall be published in at least two official languages of the Union. The content of the network statement shall be made available free of charge in electronic format through the web portal of the European Railway Agency. | The network statement shall be published in at least two official languages of the Union considering that one of them shall be one of the official working languages of the Union. The content of the network statement shall be made available free of charge in electronic format through the web portal of the European Railway Agency. |
| Justification | |
| <p>In order to favour further the smooth development of competition throughout the EU, it would be useful if one of the languages of the network statement were common throughout the EU.</p> <p>To date, members of RailNet Europe (covering all EU IMs, see www.railneteurope.com) committed themselves to translate their Network Statement in English and have done so almost completely in 2010. UTP therefore proposes to officialise this practice implemented at the initiative of the sector.</p> | |

| Annex VI.1 NEW | |
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| | <i>This section shall contain information on the conditions of access to border points. It shall indicate all known restrictions to the use of infrastructure and specify where to find information about other restrictions.</i> |
| Justification | |
| <p>The network statement should contain information relating to border points (currently difficult to find). It should also have a list of infrastructure and traffic restrictions that are known in advance (usually due to planned maintenance works) and specify how and where to find out about other restrictions.</p> | |

| Annex VI.2 | |
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| A section on charging principles and tariffs. This shall contain appropriate details of the charging scheme as well as sufficient information on charges as well as other relevant information on access applying to the services listed in Annex III which are provided by only one supplier. It shall detail the methodology, rules and, where applicable, scales used for the application of Articles 31 to 36, as regards both costs and charges. It shall contain information on changes in charges already decided upon or foreseen in the next five years. | A section on charging principles and tariffs. This shall contain appropriate details of the charging scheme as well as sufficient information on charges as well as other relevant information on access applying to the services listed in Annex III which are provided by only one supplier. It shall detail the methodology, rules and, where applicable, scales used for the application of Articles 31 to 36, as regards both costs and charges. It shall contain information on changes in charges already decided upon or foreseen in the next five years. <i>It shall specify the compensation schemes in case of delay, deterioration of quality and cancellation of allocated paths.</i> |
| Justification | |
| <p><i>It is necessary that clear provisions are set, concerning the compensation in case of delay, deterioration of quality and cancellation of allocated paths. This issue is particularly sensitive in case of works on the infrastructure.</i></p> <p><i>The quality of paths must be guaranteed and be conform with the price of the track access charge (in particular in terms of speed and flows, resilience and infrastructure services), as it has direct impacts on the quality of the railway service.</i></p> | |

| Article 46.2 | |
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| When a situation requiring coordination arises, the infrastructure manager shall have the right, within reasonable limits , to propose infrastructure capacity that differs from that which was requested. | When a situation requiring coordination arises, the infrastructure manager shall have the right, within reasonable time and itinerary limits, specified in the network statement , to propose infrastructure capacity that differs from that which was requested. |
| Justification | |
| <i>UTP would like to clarify the definition of “reasonable limits” of the coordination procedure. UTP suggests using two criteria (time and itinerary) to clarify and frame these limits.</i> | |

| Annex VI.3 d) | |
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| (d) the principles governing the coordination process and the dispute resolution system made available as part of this process; | (d) the principles governing the coordination process and the dispute resolution system made available as part of this process. These principles shall in particular define the reasonable itinerary and time limits referred to in article 46.3, which shall not exceed 1 hour for a passenger train and 3 hours for a freight train; |
| Justification | |
| <i>In coherence with the amendment on article 46.2, UTP wishes to clarify the definition of “reasonable limits” of the coordination procedure, framing it through time and itinerary limits. UTP considers that reasonable time limits would have not to go over 1 hour for a passenger train and 3 hours for a freight train.</i> | |

- **Systèmes de performances**

| Article 35.1 NEW | |
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| Infrastructure charging schemes shall encourage railway undertakings and the infrastructure manager to minimise disruption and improve the performance of the railway network through a performance scheme. This may include penalties for actions which disrupt the operation of the network, compensation for undertakings which suffer from disruption and bonuses that reward better-than-planned performance. | Infrastructure charging schemes shall encourage railway undertakings and the infrastructure manager to minimise disruption and improve the performance of the railway network. Member States shall ensure that performance schemes have been elaborated and accepted by infrastructure managers and applicants, under the scrutiny of the regulatory body, before 2015. Performance schemes shall comply with the objective of railway development and continuous improvement of quality of transport services for the end-customers. This may include penalties for actions which disrupt the operation of the network, compensation for undertakings which suffer from disruption and bonuses that reward better-than-planned performance, without prejudice to liability rules. The Commission shall monitor the set-up of the performances scheme in each member state. |
| Justification | |
| <i>For the sake of clarity it is important to clarify that performance schemes must be set up without prejudice to liability rules as the performance scheme cannot replace such rules.</i> | |

Article 15.3 Scope of market monitoring

The Commission shall monitor the use of the networks and the evolution of framework conditions in the rail sector, in particular infrastructure charging, capacity allocation, investments in railway infrastructure, developments as regards prices and the quality of rail transport services, the rail transport services covered by public service contracts, licensing and the degree of harmonisation between Member States. It shall ensure active cooperation between the appropriate regulatory bodies in the Member States.

The Commission shall monitor the use of the networks and the evolution of framework conditions in the rail sector, in particular infrastructure charging, capacity allocation, investments in railway infrastructure, developments as regards prices and the quality of rail transport services, **the performances schemes**, the rail transport services covered by public service contracts, licensing and the degree of harmonisation between Member States. It shall ensure active cooperation between the appropriate regulatory bodies in the Member States.

Justification

One of the objectives of rail transport policy is to achieve a competitive level playing field between transport modes. The rail monitoring scheme should regularly assess these aspects

- **Programmation des travaux d'infrastructure**

Article 53.3

The infrastructure manager shall inform in due time interested parties about unscheduled maintenance work.

Except in case of force majeure, including urgent and unforeseeable safety-critical work, a train path allocated may not be cancelled less than two months before the scheduled service in the timetable, if the applicant concerned does not give its approval for such cancellation. In such a case the infrastructure manager concerned shall make an effort to propose to the applicant a train path of an equivalent quality and reliability which the applicant has the right to accept or refuse. This provision shall be without prejudice to any rights the applicant may have under an agreement as referred to in Article 44(1). In any case, the applicant may refer the matter to the regulatory body referred to in Article 55 of this Directive.

Justification

The infrastructure managers should have the possibility to cancel the path in case of safety critical events that could not have been avoided by a prudent and diligent infrastructure manager (ie. which is not linked with an insufficient maintenance).

In other cases, the infrastructure manager cannot cancel an allocated path impacted by unscheduled maintenance at least 3 months before the service, if the applicant does not give its approval two months are indeed necessary to avoid highly disturbing effect for railway undertakings, as they made a commitment to their customer to provide them with a transport service and to guarantee the agreed quality level.

This amendment is consistent with similar provisions of the recently adopted regulation on rail freight corridors (Regulation 913/2010).

- **Consultation**

| Article 8.3 | |
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| <p>Within the framework of general policy determined by the State and taking into account the rail infrastructure development strategy referred to in paragraph 1, the infrastructure manager shall adopt a business plan including investment and financial programmes.</p> <p>The plan shall be designed to ensure optimal and efficient use, provision and development of the infrastructure while ensuring financial balance and providing means for these objectives to be achieved. The infrastructure manager shall ensure that applicants are consulted before the business plan is approved. The regulatory body referred to in Article 55 shall issue a non-binding opinion on whether the business plan is appropriate to achieve these objectives.</p> | <p>Within the framework of general policy determined by the State and taking into account the rail infrastructure development strategy referred to in paragraph 1, the infrastructure manager shall adopt a business plan including investment and financial programmes.</p> <p>The plan shall be designed to ensure optimal and efficient, provision and development of the infrastructure while ensuring financial balance and providing means for these objectives to be achieved. The infrastructure manager shall ensure that applicants are consulted within three months before the business plan. The regulatory body referred to in Article 55 shall issue a non-binding opinion on whether the business plan is appropriate to achieve these objectives.</p> |
| Justification | |
| <p>Infrastructure managers should only be obliged to consult those applicants having expressed an interest in accessing the infrastructure in question. Without such limitation, the infrastructure manager could be liable to consult any potential applicant throughout Europe. This appears excessive and would be too costly for the infrastructure manager. It is therefore proposed to reduce the scope of consultation to those concerned.</p> <p>The business plan is likely to contain all sorts of confidential information (such as employee sensitive information, etc) which should not be disclosed. However, the investment programmes that are included in the business plan are of interest to applicants. It is therefore proposed to limit the consultation to that part.</p> | |

| Article 30.3 §3 | |
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| <p>Basic principles and parameters of such agreements are set out in Annex VII which may be amended in the light of experience in accordance with the procedure referred to in Article 60.</p> <p>Member States shall consult interested parties at least one month before the agreement is signed and publish it within one month of concluding it.</p> <p>The infrastructure manager shall ensure that its business plan is consistent with the provisions of the contractual agreement.</p> <p>The regulatory body referred to in Article 55 shall assess the appropriateness of the envisaged medium to long-term income of the infrastructure manager for meeting the agreed performance targets and shall make relevant recommendations, at least one month before the agreement is signed.</p> <p>The competent authority shall give justifications to the regulatory body if it intends to deviate from these recommendations.</p> | <p>Basic principles and parameters of such agreements are set out in Annex VII which may be amended in the light of experience in accordance with the procedure referred to in Article 60.</p> <p>Member States shall consult interested parties at least three months before the agreement is signed and publish it within one month of concluding it.</p> <p>The infrastructure manager shall ensure that its business plan is consistent with the provisions of the contractual agreement.</p> <p>The regulatory body referred to in Article 55 shall assess the appropriateness of the envisaged medium to long-term income of the infrastructure manager for meeting the agreed performance targets and shall make relevant recommendations, at least one month before the agreement is signed.</p> <p>The competent authority shall give justifications to the regulatory body if it intends to deviate from these recommendations.</p> |
| Justification | |
| <p>Le contrat qui est signé entre l'Etat et le gestionnaire d'infrastructure est absolument essentiel pour les EF. Le délai d'un mois peut s'avérer trop limité, pour pouvoir assurer une véritable consultation des parties prenantes. Le délai de trois mois paraît adéquat pour permettre aux parties prenantes de faire part de leur avis détaillé.</p> | |