EUROPE Policy

Two pillars, one market

With the Fourth Railway Package expected to be adopted this year, the European Railway Agency is starting to prepare for its expanded remit, although the debate over liberalisation and competition rages on. Chris Jackson reports from Luxembourg.

European Transport Commissioner Violeta Bulc underlines the significance of the Fourth Railway Package during the ERA conference in Luxembourg.

'We believe there is a huge opportunity to open up the market, and be a force for growth in the sector', says Leoš Novotny, founder and CEO of Czech open access operator LEO Express. Looking forward to the creation of a genuine Single European Railway Area, with the removal of technical and administrative barriers, he is also keen to put the case for much greater liberalisation of passenger rail services.

Speaking at a conference in Luxembourg on November 23-24, hosted by the European Railway Agency and the Luxembourg Presidency of the EU, Novotny was one of several panellists to emphasise the need for private investment to support the modernisation of Europe's railways and drive up the quality of service.

'We all know about the environmental advantages of rail', said ERA Executive Director. Josef Doppelbauer. 'But rail has to be addressed as a system. At present the European rail sector suffers from a number of problems, notably cost, quality of service, market share and innovation to keep ahead of its competitors. That is why we need the Fourth Railway Package.'

Describing the package as 'a milestone in the process to establish the Single European Railway Area', Transport Commissioner Violeta Bulc said it was 'essential to remove the remaining legal, technical and institutional barriers which prevent market access'. She believes this will 'bring new investment in the sector, provide for new and more innovative services, reduce operating costs and ensure better value for the public money invested in the sector.'

With a fleet of just five Stadler EMUs, Czech open access operator LEO Express has driven a 30% growth in ridership on the cross-border corridor between, Praha, Ostrava and Košice in Slovakia.

Nearing the finishing line

Almost three years after the European Commission unveiled its draft legislation for the package, (RG 1.13 p30), the much-debated proposals are still making their way through the complex European legislative process. But there are signs that the end is near. As we reported in RG 11.15 p26, the Council of Ministers agreed a 'general approach' to the liberalisation measures in the market pillar in October. Trialogue discussions between the Council, Commission and European Parliament are underway, and Bulc was hopeful that a consolidated text could be agreed as early as March (p27). With the final wording of the technical pillar agreed last June (RG 7.15 p28), the whole package should finally be adopted later this year.

Having piloted the negotiations through the second half of 2015, Luxembourg's Minister for Sustainable Development & Infrastructure François

Bausch recognised the need for a 'constructive approach' to reach agreement on the 'last mile' of the discussions.

Pointing out that a 'truly integrated and interoperable' rail market is crucial for small countries like Luxembourg, which sees a substantial volume of cross-border commuting each day, Bausch said 'we fixed on the Fourth Railway Package as the key topic for the transport sector in our presidency, and we have moved it forward. Not just the market pillar — we now have a green light for the whole package.'

Preparing for change

The measures in the technical pillar will significantly expand the remit of the European Railway Agency, which is set to become a one-stop shop in charge of vehicle authorisation and safety certification for all cross-border rail operations within the EU. The provisions are due to come into force three years after the package is adopted, which is expected to mean some time in 2019.

The transition phase will require a huge amount of preparation, and while its expanded remit does not formally come into force until the package is adopted, Bulc has already mandated ERA to start work. The agency is consulting the key players about what needs to be done, and the Luxembourg conference was intended to launch the cross-industry collaboration that will be essential over the coming months.

ERA will be responsible for issuing safety certification to new operators, as well as authorising the use of new rolling stock for international operation. The agency will have to work closely with the national safety authorities in each country, who will undertake much of the work on behalf of ERA and will still be able to authorise vehicles for domestic use.

According to ERA's project manager Thierry Breyne, this will be 'a big challenge' for the agency, which was originally established as an advisory body to the European Commission, but will now have an executive role under a much-expanded mandate.

Breyne explained that the authorisation regime would be co-ordinated through an IT-based one-stop shop, providing a single point of contact for operators and suppliers. ERA has already established a specific task group to determine how this should function. Doppelbauer commented that setting up the one-stop shop was 'a huge task that will require all the players to pull the same string'. He said ERA 'will do its homework and provide clear and simplified rules, but on the other hand we will strictly impose full compliance with the Technical Specifications for Interoperability.'

While most authorisation will be based on the TSIs, one of the big challenges for ERA is to reduce the number of national rules which determine access to individual networks. The Cross-Acceptance unit has been working to establish equivalence between notified rules in each country and eliminate those that have been superseded by the TSIs. Although significant progress has been made, there are still more than 11 000 notified national rules in force, and many players remain concerned about unwritten rules that may exist in the form of custom and practice.

Patricio Grillo of DG Move agreed that national rules were 'a hindrance to innovation', which has a big economic impact. 'Everyone agrees there is a need to remove them, but how?' Suggesting that 'a vision without an action plan is just a dream', he said ERA had been tasked to draw one up.

Echoing comments from Unife Chairman Lutz Bertling that European suppliers needed a simplified technical regime to support exports, Bulc said she wanted rail suppliers to 'learn from the aviation sector', where the adoption of common international standards has allowed Airbus to become a global business. 'ERA will become the guardian of a dynamic, enabling regulatory framework', she explained. 'I want the agency to be the front runner — go to out into global markets to help other regions create regulatory frameworks, and encourage them to adopt European standards, so our suppliers can come in and sell their products.'

Liberalisation battle rages on

While there is widespread support for the three measures in the technical pillar, there seemed to be little agreement over the market pillar, and it is not at all clear whether a meaningful agreement will be reached by March. Pro-liberalisation players such as Novotny continue to argue for greater competition, while some member states and their incumbent railway operators seem determined to maintain the status quo. Neither side seems really happy with the compromise wording adopted by the Council in October.

Dominique Riquet, Vice-Chairman of the European Parliament's Transport Committee, warned that 'the discussions will be difficult. The Commission's

Removing barriers to interoperability is essential for smaller countries such as Luxembourg, explains Minister for Sustainable Development & Infrastructure François Bausch.

original proposal for the market pillar was very good, but the Council's text is not good at all. Some member states are very reluctant to open up their market. I am sure the solution will not be perfect.'

Novotny agreed. 'In theory, competition is good and everybody wants it. The original wording by the Commission was beautiful, but the current version we would not applaud. It has been watered down to protect the publicly-owned incumbents.' And he believes that would stifle much-needed investment and innovation.

'There is an opportunity to harness private capital to modernise Europe's railways', he explained. 'We have shown that private operation in the passenger market is possible — we have bought a new fleet and today we are serving 40 cities. And we are making a profit.

'Our investors are telling me that they would invest more if the authorities would enforce competition in the open

LEOŠ NOVOTNY CEO LEO EXPRESSS

'There are routes in every country where you can run modern trains with zero subsidy and make a return on the investment'

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Florence Rousse of French safety authority EPSF reflects on the challenges to be addressed in achieving a single European regime for safety certification.

market. But we are concerned about the new wording allowing direct award of PSO contracts. 'If you do not oblige every train to be tendered (which is in the interests of everyone), then you will not get it to work. Investors will choose other industries to invest in.' Given the shortage of public funding, Novotny said reliance on the 'old model' would not work. 'Unless we start doing things differently, in 20 years the railways will still only have a 6% market share. And no-one wants that.'

According to Novotny, LEO Express achieved an Ebitda of 20% in only its third year of operation. The Czech company is now running services in four countries, with its trains on the Praha – Ostrava – Košice corridor connecting with feeder buses to and from Poland and Ukraine.

'In every country there are half a dozen or more routes with huge demand where you can run modern trains with zero subsidy and make a return on the investment', he suggested. 'On our routes we have grown the market by 30%, and we are now carrying more than a million passengers a year.'

One of the big concerns in many member states is that new entrants are only interested in cherry-picking the profitable routes. Novotny said this was not the case with LEO Express. 'We want to run whatever is available, and we have bid for everything on offer. We have offered to run PSO services for 30% less subsidy than the status quo, with modern trains and a better quality of service.'

The key to profitability is greater efficiency, he explained, while rejecting any allegations of social dumping. 'We are not paying our employees less. In fact, we have more staff than the incumbent, and we are paying then 10% more in order to attract the right talent.' In terms of productivity, he noted that each of the company's five trainsets was operating for 16 h per day, running more than 50 000 km a year. 'We do this with zero spares, but thanks to the reliability of the trains, we have only had to cancel one service in 4 000.'

Calling on the European institutions to reassure stakeholders and investors by really opening up the rail market, Novotny identified five key success factors which he felt were essential for 'a thriving EU railway market':

- full separation of train operators from infrastructure managers;
- financial transparency and accounting separation;
- a single set of technical rules supervised by ERA as a one-stop shop;
- harmonised KPIs for infrastructure managers rather than performance criteria;
- full opening-up of the rail passenger market by 2019.

LEASING

More flexibility essential

According to Shaun Mills, CEO of rolling stock leasing company Alpha Trains, a more open and transparent market should help to bring down costs. At present, he told the ERA conference in Luxembourg, 'assets cannot travel freely because of the regulatory and technical restrictions'.

Explaining that train operators increasingly lease vehicles because of the 'mismatch between asset life and the length of the underlying transport contracts', he said leasing is 'all about risk management'. As such, it was generally better to invest in liquid assets rather than rolling stock that was limited to use in one or two countries. Although most vehicles may need some refurbishment or modifications at half-life, retrofitting them with new systems to permit operation elsewhere can be prohibitively expensive, he said.

In the company's locomotive business, which is dominated by the liberalised freight sector, he reported a strong focus on standard multi-system designs that could be deployed freely across the European market. 'Locomotives are seen as a commodity product, which opens up the competition. 67% of our fleet is multi-country, but we still face the need to get them certified in 14 countries, so different locos have different country packages.'

By comparison, the regional passenger business is 'not liberalising fast enough', he believed. 'Around 90% of our revenues from passenger leases come from Germany, but after 20 years of tendering, DB still has approximately 70% of the regional market.' Mills explained that another complication was the way in which 'many of the public transport authorities still dictate local specifications, whereas we prefer more common, more liquid assets that can be moved freely between countries at lowest cost. We have to think about the future secondary market, and the technical pillar really does support that.'

However, Alpha Trains also wants to see more tendering to create a competitive market. 'Today, 42% of European passenger-km are still directly awarded', said Mills. 'And in 16 out of 25 countries the incumbent has a market share of more than 90%. The Fourth Railway Package would require the tendering of domestic operating concessions, but what is the speed or desire for member states to act? There is still a long timescale for protected markets in the revised text.' ■

36 months

SINCE THE EUROPEAN COMMISSION PUBLISHED ITS DRAFT PROPOSALS FOR THE FOURTH RAILWAY PACKAGE

Photo: Alpha Trains

Alpha Trains is leasing these Traxx Class 185.2 electric locomotives to open access freight operator RheinCargo.

Photo: Alpha Trains

Photo: WestfalenBahn

Technical variations and local requirements constrain the ability to redeploy regional passenger trainsets. Amongst the new Alpha Trains EMUs entering service with the December 2015 timetable change are Bombardier Talent 2 EMUs for Abellio's Emsland-Mittellandlinie and Stadler KISS double-deck sets for Westfalenbahn to operate the Saale – Thüringen – Südhartz route.

However, he warned that the Fourth Railway Package may become 'a total failure', with the Council focused on preserving the status quo and member states 'negligently' ignoring the importance of the rail industry for the European economy.

Bausch countered that the reality of the EU was about political priorities, and not simply a question of the market. 'We need to adopt the text, and focus on implementing it', he argued.

Noting the COP21 climate change discussions in Paris (p3), Bausch pointed out that transport was the only sector where carbon emissions are going up. 'Rail is the most environmentally-friendly mode, so we need to create an integrated market for products and services. We must lower costs and make it easier to put trains into service for cross-border operations. That will help to create favourable conditions in which to do business.'

Responding to Riquet's concerns over the direct award of PSO contracts and the lengthy transition period proposed in the latest compromise, Bausch emphasised that 'tendering is the general rule — it is an obligation, although there are some exceptions for small networks, or to deal with specific geographical situations'. He was also 'sure that the transition period will be shortened in the trialogue.'

DG Move's Director, European Mobility Network, Olivier Onidi felt the simplification of procedures and regulation would encourage competition, adding that ERA would be 'at the heart of creating a regime that will be conducive to efficiency'.

And while the Commission has made it clear that there is no intention to have a fifth package, Onidi accepted that there would be 'natural developments' as the legislation evolves following the implementation of the fourth package. 'For example, we may need to reinforce the role of the infrastructure managers. So we will probably consider that later.'

Early implementation essential

Bertling argued that that the priority should be to get the package implemented. He was concerned that the new authorisation regime would not come into force until 2019 at the earliest, while the current cost and complexity were hampering the ability for the European supply industry to win export business. 'A big step has been taken in 2015 to get the two pillars agreed', he said. 'Don't reopen the compromise. It is not ideal, but we need to implement it as soon as possible. Stop debating, and just do it; at the end the passengers will benefit. We need to move fast; the Chinese are not waiting.'

Equally concerned was CER Executive Director Libor Lochman, who warned that the negotiations over the market pillar might not be concluded before July or even September. 'We have already agreed the wording for the technical pillar', he pointed out. Why should that be parked? Can we not bring those measures forward?'

Bulc was adamant that 'the two pillars must go hand in hand. The technical pillar is not delivering for the sake of technology, but for the sake of consumers. But there is no reason why we cannot start to get ready now. There is still a lot to do. Will the industry be ready next week? Get ready to deploy!' ■