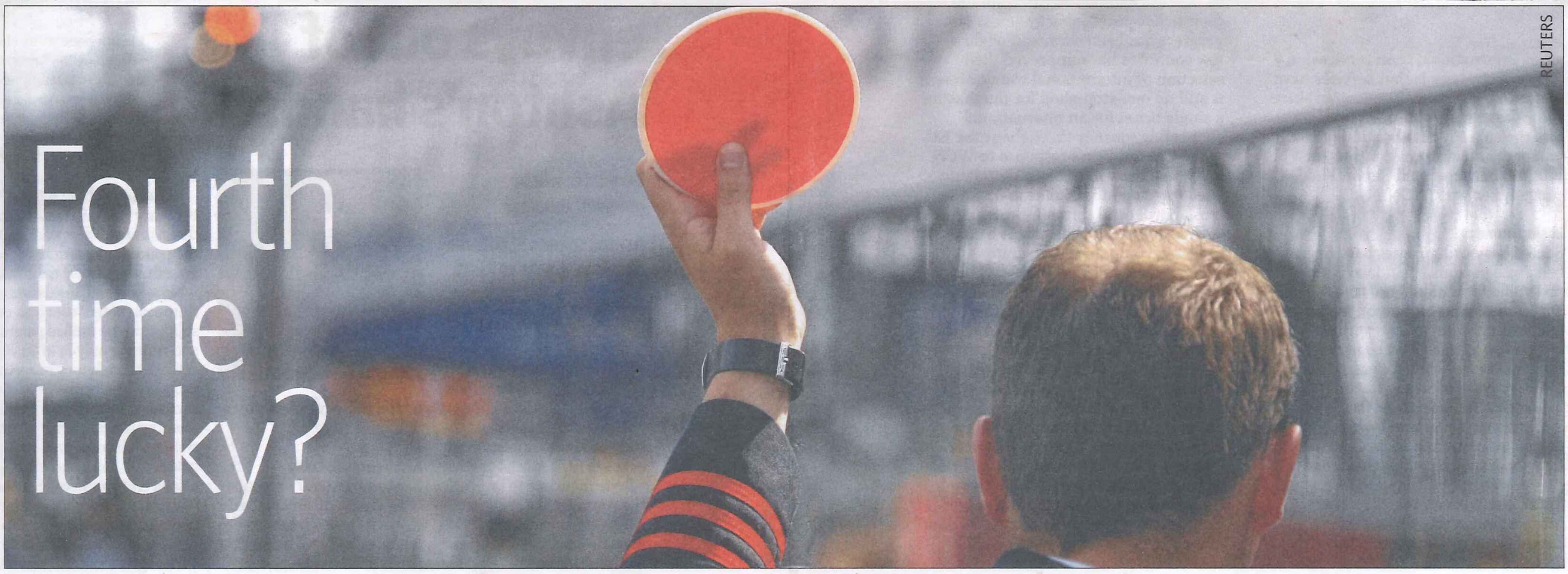
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Fourth time lucky?

The EU is a long way from its goal of creating a single European rail market, writes Dave Keating

Few in the rail sector would profess to be against the principle of a single European market for railways. But Siim Kallas, the European commissioner for transport, who is pushing rail reform, observes that the aspiration is not always matched by action.

"I made a big speech in Berlin in 2010, outlining my vision for a single European railway area," he recalls. "And everybody praised the idea and said 'let's do something, let's plan for reform'. But when I came up with real proposals, you see that the enthusiasm vanishes."

Kallas's proposal to recast EU rules on the rail markets, put forward in 2013, was the fourth attempt to open Europe's fragmented rail networks to competition and co-operation. The first came in 1991, and subsequent efforts followed over the next decade. Yet the problems of a fragmented and closed market still persist.

Kallas rehearses the problems: "Say you have a locomotive, and you want to run this locomotive from Lisbon to Tallinn, you have to have certificates for this locomotive from all the [eight] countries in between. If I'm a producer of railway equipment, I have to have 28 certificates."

The fourth railway package is attempting to make it easier for the makers of rolling-stock to operate across the member states by establishing a single certification system, to be handled by a strengthened European Railway Agency (ERA). The agency would authorise rail stock and equipment in the same way that the European Aviation Safety Agency (EASA) currently authorises planes. But this idea has encountered great resistance from member-state governments and railway unions that do not want to cede the power of national agencies.

It is a pattern Kallas says he has seen in other areas in his portfolio, notably in his efforts to merge European airspace and reduce the number of national air-traffic control authorities.

"It is amazing how big the resistance is from national bureaucracies," he says. "They say, 'you take from me the right to give permission to cross the border, what will I do tomorrow?' You see behind this an existential fight for survival by national administrations."

While national agencies resist, the companies that make rail equipment are fighting to preserve the Commission's proposal. Henry Poupart-Lafarge, the president of Alstom Transport and chairman of UNIFE, which represents rail supply companies, says that giving an enhanced role to the ERA is essential to the creation of a single European rail market.

The changes to the ERA are just one of five elements in Kallas's reform proposals, but it is the one that is threatening to hold up the entire reform. While three of the proposals dealing with technical standards are likely to be agreed by April, the two remaining proposals – to strengthen the ERA, and to separate out the operation of the trains from ownership of the tracks – are proving more politically charged and more difficult.

Pseudo-unbundling

The separation of track ownership from train operation – known as 'unbundling' – has perhaps been the most controversial idea. Even before Kallas's proposal was made in January 2013, there was intense lobbying of the Commission to stop the proposal from requiring a full unbundling of companies. Much of that lobbying was being done by Deutsche Bahn, the German rail company, in which train operation and track ownership are under the same umbrella.

The Commission wants to ensure that infrastructure managers do not give preferential treatment to their parent rail companies, a practice that it believes is deterring potential competitors, particularly in the rail-freight market. Deutsche Bahn, Europe's biggest rail company, is accused of discriminating through its subsidiary infrastructure manager. Other countries have complained that if Deutsche Bahn is allowed to keep its integrated structure while other countries are required to open up their markets – another part of the liberalisation package – the German company could dominate vast swathes of the European market (one in four British train operators is wholly or partly owned by Deutsche Bahn, and Arriva – a subsidiary of Deutsche Bahn – operates trains in 13 EU member states).

Subjected to enormous pressure, the Commission relented. Rather than forcing a separation of train and track companies, it would merely require rail companies to separate the functions and finances of infrastructure management, but selling them off would not be obligatory. Companies such as Deutsche Bahn would have to set up 'Chinese walls' to ensure legal, financial and operational separation.

Rail-freight companies, the most disadvantaged by this system, were furious. "It seems the force of Germany has overtaken the Commission and forced them into a kind of retreat on unbundling," said Tony Berkeley, chairman of the UK's Rail Freight Group, at the time.

However the Confederation of European Railways (CER), which represents rail companies, said unbundling for unbundling's sake would produce a perverse result. It has strongly resisted even the separation of functions and finances.

Christian Kern, the chief executive of Austrian Federal Railways (ÖBB), who was recently elected chairman of CER, is against unbundling because of his negative experience with it in Austria in the field of energy.

"In Austria we were obliged to separate," he says. "The impact on competition was zero, but the impact on costs was large."

Kern also says that since a 2007 liberalisation of the EU rail-freight market the share of freight using rail actually went down. "The most successful rail systems in the world, Japan on the passenger side and the US and Australia for cargo, are integrated," he says. "The big challenge is to create a level playing-field. The guiding question should not be unbundling or not, it should be what helps our customers and increases our market share [compared to road and air]".

Once the rail reform proposal's three technical pillars have been wrapped up in the next few months, the big political fight will begin in the new term of the European Parliament. There will be new faces around the negotiating table: Kallas is expected to return to Estonia, and Brian Simpson, the chairman of the Parliament's transport committee, is not seeking re-election as an MEP. The new committee chairman and the European commissioner for transport will be entering a minefield when they sit down to work out a compromise on just how separate a rail operator should be from a rail owner.

The German giant

Deutsche Bahn carries about two billion passengers per year. It is the largest railway operator in Europe, and it is getting bigger. A private company with the German government as its majority stakeholder, Deutsche Bahn has a big influence on German and EU politics.

Just how big that influence is has been the subject of debate. As the company has bought up railways throughout Europe, taking advantage of waves of rail liberalisation in other EU countries over the last two decades, its competitors have grumbled about its political and economic influence.

This tension has perhaps been felt most acutely in the Confederation of European Railways (CER), which aims to reach one united policy position for all its members. As the fourth railway package was being developed, some within CER privately complained that Deutsche Bahn was setting the agenda. Libor Lochman, the executive director of CER, admits that Deutsche Bahn is a strong player in the market. But he says that as a member of an organisation pooling different interests, Deutsche Bahn cannot call all the shots. "We have a huge variety of railways – integrated, separated – so we have to find a balance," he says. "There cannot be any dominance within the membership; otherwise, we risk some members would leave us."