

# UNIFE feedback on the public consultation on the Revision of the State aid Railway Guidelines

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## Introduction

As announced in the European Commission's *Action Plan to boost cross border and long-distance passenger rail* published in December 2021, the Commission's is aiming at "*clarifying by 2023 the **State aid rules on public funding of interoperable rolling stock for cross-border services** in the revised Railway Guidelines*".

The Railway Guidelines set out the conditions under which aid to railway companies may be considered compatible with the internal market and State aid rules. According to the Commission "*the **long-standing lack of interoperability, alongside the strong need for further digitalisation, is holding back the development of seamless, cross-border rail services. State aid can help address these market failures and improve the competitiveness of rail, thus facilitating modal shift, cutting transport emissions and reducing road congestion***".

UNIFE, the European Rail Supply Industry Association, agrees with this assessment and welcomes the Commission's efforts to accelerate the modal shift to rail. In fact, rail transport is a cornerstone for the fulfilment of EU's climate objectives and to decarbonise the transport sector. In a nutshell, UNIFE supports the Commission in making the rules more flexible for Railway Undertakings (RUs) and operators to facilitate the purchase and renewal of rolling stock. Cutting greenhouse gas emissions from the transport sector by 90% by 2050, compared with 1990 levels is a crucial element to achieve climate-neutrality. This endeavour will require further **boosting investments in zero-emission rolling stock and facilitating the deployment of rail innovative technologies, including interoperability ones such as the European Rail Traffic Management System (ERTMS) and climate friendly alternatives.**

More specifically, UNIFE would like to highlight several elements that must be considered when revising the Railway Guidelines.

## Support to modal shift towards less polluting and more sustainable transport modes

The Guidelines allow for State aid to reduce the cost of the corresponding transport operations in the form of aid for rail infrastructure use and aid for reducing external costs. In this respect, it is worth highlighting that:

- ▶ Although, according to the Guidelines, eligibility for rail support should be based on showing **reduction of external costs** by a certain percentage compared to road only alternative, it is clearly and sufficiently proven that rail is more environmentally friendly than road. In fact, in the context of the EU Taxonomy, the first Delegated Act on the substantial contribution to climate change mitigation had already proven that rail transport and manufacturing does not negatively affect the other environmental objectives – rail-related economic activities are fully compliant with the do-no-significant-harm criteria. **Rail accounts for less than 0.4% of GHG emissions from transport although it carries 17.9% of inland freight and 8.4% of passengers in Europe.**
- ▶ Rail operations are usually not economically viable and thus typically require public sector financial support. Due to the fact that, generally, rail operations are **not cost-covering and/or do not ensure competitiveness as compared to the road-only alternative**, State aid for rail operations is well justified. Naturally, **should external costs be included, then rail would be more viable than road.**
- ▶ When aid supports the **procurement of assets**, EU procurement guidelines, the principle of the Most Economic Advantageous Tender (MEAT), assuring a level playing field and filtering out abnormally low bids must be considered.

- ▶ The aid is given as a rule in the form of a **scheme based on transparent and non-discriminatory criteria**. Individual aid should not be authorised except in very exceptional circumstances where the need for **State intervention is characterised by a clear market failure**, taking into account the exceptional circumstances, the magnitude of the underlying transport operations and the limited competition distortions.
- ▶ Therefore, in order to better contribute to the achievement of the European ambitious targets on shifting more activity towards more sustainable transport modes and to strengthen the competitiveness of the market, UNIFE believes that State aid should be made available to RUs, operators and infrastructure managers as much as needed and **only subject to some reasonable conditionality**.

## Infrastructure for rail and intermodal transport

The Railway Guidelines do not provide State aid rules on the public financing of infrastructure. To respond to the question on whether specific guidance is needed on State aid to rail service facilities, i.e. to facilities, including a site, building or equipment, which are meant for the performance of one or more services to rail and intermodal transport operators (such as freight transshipment terminals, marshalling yards, maintenance facilities or fuelling stations), UNIFE highlights the importance of **recognizing market dynamics in rail service facilities**; i.e.: the supply industry also offers maintenance services.

- ▶ Therefore, State aid should be provided in such a way so as to avoid unfair competition in the service market among operators and rail industry suppliers. **State aid measures for railway services facilities should be accessible to all market participants**. Our industry is convinced that maintenance facilities are key for having an effective open access to the rail network and therefore for boosting passenger services. The availability of these premises in an open and non-discriminatory basis would be very positive. In this sense, State aid for the construction or upgrade of rail service facilities should be allowed up to 100% of the funding gap.

## Access to rolling stock

The Railway Guidelines provide rules for State aid for the purchase and renewal of rolling stock. Such aid is meant to incentivise railway undertakings to invest in the modernisation of their rolling stock to keep rail transport competitive with other modes of transport which cause more pollution or entail higher external costs, to limit the impact of rail transport on the environment, particularly by reducing the noise pollution it causes, to improve its safety and interoperability.

- ▶ It is important to note that **the offer by the rail industry is sufficient and available** and that there are several qualified suppliers for all types of passenger or freight rolling stock in Europe.
- ▶ However, **State aid is necessary to promote a quicker and more substantial renewal and modernisation in the rolling stock fleets to more environmentally friendly and sustainable trains**, for example by implementing alternative fuels such as battery and hydrogen while taking out older, less-efficient, and diesel-based assets. In this sense, the focus of State aid could be assets that are often not easily financeable by private sector sources such as those of alternative fuels propulsion systems. To support the greening of railway transport, UNIFE would you be in favour of special environmental bonuses on State aid to the purchase or retrofit of rolling stock.
- ▶ UNIFE is in favour of **State aid to RUs for the purchase and lease of passenger rolling stock**. Consequently, State aid should support the outright acquisition (via capital expenditure grant) as well as leasing (via operational expenditure and/or capital expenditure grants) for rolling stock, especially in areas of new technology (e.g. alternative fuels) where access to private sector finance may be limited.

- ▶ UNIFE believes that **there can be market failures that would justify State aid measures to subsidise the purchase of rolling-stock by leasing companies**, or by any other market actors providing for the leasing of rolling stock. The Railway Guidelines provide for rules on State aid for the purchase or renewal of rolling stock by RUs. In this regard, the **implementation of new technologies should be considered as “market failure” due to lack of risk capital to employ such new technologies, such as alternative fuels**. Therefore, support is needed where new technologies are being employed but private sector (risk) capital is not sufficiently available (at economically sustainable levels).
- ▶ Finally, **UNIFE believes that the broad spectrum of instruments (guarantees, loans, equity or quasi equity, tax advantage or tax exemption, grants) should be available and applied on a case-by-case basis**. For example, guarantees, certain loan tranches and/or equity may be combined with private sector capital in some cases, while in other situations grants would be needed as the respective State may have financial spending limitations and the investment in more modern and environmentally friendly technologies shall be undertaken quickly.

## Interoperability of the rail network

The Railway Guidelines acknowledge that the transport sector may experience “coordination” difficulties in the economic sense of the term, for example in the adoption of a common interoperability standard for rail, or in the connections between different transport networks. Accordingly, the Railway Guidelines allow for “interoperability aid”, which is defined as aid to promote greater safety and the removal of technical barriers in the rail transport sector, by way of support to investments relating to the installation of safety systems and interoperability, or noise reduction both in rail infrastructure and in rolling stock, with particular reference to investment associated with the deployment of ERTMS.

- ▶ UNIFE has been actively calling upon the Commission on the need to speed up the deployment of ERTMS as both a major enabler of a truly interoperable TEN-T and as the backbone of the future digital railway system. **While deployment on board of the trains is a success, with 46% of all new trains already equipped, trackside deployment is lagging behind with only 4% of the complete European network being equipped today**. Hence, while speeding up trackside deployment is urgently required, further deployment of on board units will also remain essential, especially as future lines that will be equipped with ETCS trackside (especially if done without fallback solution) will require several vehicles to be adapted.
- ▶ UNIFE is convinced that ERTMS functionality and scalability allows economically viable solutions for all types of railway lines on the entire European network, from low-density lines to high speed and high-density lines. UNIFE believes this is a step into the right direction for ERTMS to be at the heart of a digital rail system. In this sense, the **aid intensity associated to ERTMS deployment should be increased from 50% to 100%**.

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