Study on Separation of accounts of railway undertakings and rail infrastructure managers

Final Report

5th November 2009

RGL Forensics
Discovering & Defining Financial Value

frontier economics

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1 EXECUTIVE SUMMARY

1.1 Introduction

1.1.1 This report is the Final Report for the Study on Separation of Accounts of Railway Undertakings and Rail Infrastructure Managers, prepared by RGL Forensics, Frontier Economics and Aecom (formerly Faber Maunsell).

1.1.2 The objective of the study, as set out in the ITT, is to:

"verify whether Member States have appropriately implemented the provisions of Directive 91/440 as amended by Directive 2001/12 on the separation of accounts and to collect financial data from railway undertakings and infrastructure managers to assess to what extent both comply with the accounting separation requirements"[1]

1.1.3 The study had six key objectives:

- To assess whether member states have implemented the accounting separation provisions of the railway Directives.
- To assess whether relevant railway undertakings and infrastructure managers complied with the domestic legislation and underlying directives.
- To review the evidence that railway undertakings or infrastructure managers have been cross-subsidising different activities
- To review the evidence that railway undertakings or infrastructure managers have been inappropriately using public funds.
- To obtain financial data on all railway undertakings and infrastructure managers with revenues of Euro 50m or more.
- To establish best practice guidelines for accounting separating by railway businesses.

1.1.4 Our findings on these topics are summarised below. Full details of our research and analysis are provided in detailed country chapters.

1.2 Member States transposition of Accounting Separation directives

1.2.1 The purpose of this task was to assess the extent to which Member States had transposed the accounting separation provisions of the EU railway directives.

1.2.2 Our review involved obtaining copies of domestic legislation relating to accounting separation and comparing it to the underlying directives. In particular, our review assessed the transposition of the elements of the directive set out in Table 1 below.

Table 1 Accounting Separation elements of Directive 2001/12/EC

Article	Issue
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'

[1] ITT for study p10

Article	Issue
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'

1.2.3 We encountered a number of issues in determining whether or not member states had fully transposed the legislation, or whether companies separated accounts were consistent with the directives:

Article 6.1 'take the measures necessary…'.

1.2.4 We have interpreted this requirement to "take the necessary measures" as principally one requiring the implementation of legislation requiring relevant businesses to prepare and publish separated accounts. Where identified, we have also commented on the responsibility or authority of regulators to enforce this requirement.

Article 6.1 publication of accounts

1.2.5 In considering whether or not companies had 'published' their accounts, we reviewed company websites, sent companies questionnaires and, where possible, made enquiries at the national companies' registrar to identify accounts they were available to the public (in some cases for a fee). We note that in some cases, accounts may be 'published' but that our review has not identified this due to lack of response to our enquiries.

Articles 6.1 and 9.4 transfer of funds

1.2.6 The possible transfer of public funds can be considered as being either direct or indirect. A direct transfer could occur for example by the simple use of public service funding received for passenger service operations for the funding of freight operations. Indirect transfers of funds could occur in a number of less transparent ways including:

- the transfer of profits from one activity to another (for example via a holding company)
- through transfer pricing arrangements
- cross subsidies from one service to another
- the sale or transfer of assets or liabilities

1.2.7 Following guidance from the Commission, we have assumed that this directive should be interpreted to cover indirect, as well as direct, transfers of funds.

1.2.8 However, because the separated accounts in nearly all cases do not provide sufficient information to enable the detailed analysis required to assess whether or not indirect transfer of funds has occurred, we have determined that in most cases the accounts are not prepared "in a way that reflects this prohibition".

Article 9.4 publication of funds received for public service remits.

1.2.9 The Commission has indicated to us that, in their view, compliance with this directive requires publication of funds received for each public service contract, and not just the publication of the total amount of funds received for all public service contracts.

1.2.10 In our review, we have treated the transposition of the directive as being implemented if there is an explicit requirement to show funds received for public service remits, irrespective of whether this is required for individual contracts or not. Our assessment of individual companies however has treated those companies who receive funds under more than one contract but which do not publish details of individual contracts as not being consistent with the directive.

1.2.11 Our findings on the extent to which member states appear to have transposed the Accounting Separation Directive are set out in Table 2 below

Table 2 Member State transposition of Accounting Separation Directives – findings subject to confirmation

Countries	Article								
	Accounting separation	Required to publish separate accounts	Prohibition of transfer of public funds	Accounts reflective of this prohibition	Separated infrastructure division or entity	Accounting separation for freight	Required to publish separate freight accounts	Passenger PSO shown separately	Prohibition of transfer of PSO compensation
	6.1	6.1 (a)	6.1(1)	6.1.(2)	6.2	9.4(1)	9.4 (a)	9.4(2)	9.4(3)
Austria	Yes	Yes	Yes	No	Yes	No	No	No	No
Belgium	Yes	No	No	No	Yes	Yes	No	Yes	Yes
Bulgaria	Yes	No	No	Yes	Yes	No	No	No	No
Czech Republic	Partial	No	Yes	Yes	Yes	Partial	No	Yes	Yes
Denmark	Yes	No	No	Yes	Yes	No	No	No	No
Estonia	Partial	No	Yes	Yes	Yes	No	No	Yes	Yes
Finland	Yes	No	Yes	No	Yes	Yes	No	Yes	Yes
France	Partial	No	No	No	Yes	Partial	No	Yes	Yes
Germany	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Greece	No	No	No	No	Yes	Yes	Yes	Yes	Yes
Hungary	Yes	No	Yes	Yes	Yes	Yes	No	Yes	No
Ireland	Yes	Yes	Partial	Partial	Yes	Yes	Yes	Yes	Yes
Italy	Partial	No	Yes	Yes	Yes	Partial	No	Yes	Yes
Latvia	Partial	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lithuania	Yes	No	Yes	Yes	Yes	Yes	No	Yes	Yes
Luxembourg	Yes	Yes	Yes	Yes	Yes	No	No	No	No
Netherlands	Yes	No	No	Yes	Yes	Yes	No	Yes	No
Poland	Yes	No	Yes	No	Yes	No	No	Yes	Yes
Portugal	No	No	No	No	Yes	No	No	No	No
Romania	Yes	No	No	No	Yes	Yes	No	No	No
Slovenia	Yes	Yes	No	No	Yes	Yes	Yes	Yes	No
Slovakia	Partial	No	No	No	No	No	No	No	No
Spain	No	No	No	No	Yes	Partial	No	Partial	No
Sweden	Yes	No	Yes	Partial	Yes	Yes	No	Yes	Yes
UK	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

1.2.12 Table 2 shows that, of all the member states, only the UK appears to have fully transposed the EU directives relating to accounting separation. In some respects this full compliance has arisen as a result of the unique fully separated structure and part privatisation of the UK rail sector, rather then through the passing of legislation specifically to implement the directives.

1.2.13 The requirement to prepare separated accounts is, in some cases, not fully transposed because the national legislation does not specify that the accounts should include a profit and loss account and balance sheet. For those countries where the accounting separation legislation does not specifically require the publication of accounts, it may be that accounts are required to be published through other company law legislation. In many of these countries accounts for the railway undertakings and infrastructure managers are published and we have noted this in our country reports and company analysis. All countries have provision for the structural separation of the industry.

1.2.14 Full details of the reasons for non-compliance are set out in the individual country chapters.

1.2.15 It is important to note that our review is based on publicly available information and responses received from regulators, transport ministries and railway undertakings and infrastructure managers. We have not been able to confirm our findings with the relevant legislative authorities all cases. It is possible therefore that in some cases we may not have identified all relevant legislation and therefore incorrectly concluded that the Member State has not transposed the legislation.

1.2.16 We therefore recommend that the Commission confirms our findings in relation to non-transposition with the relevant legislative authorities in each member state.

1.3 Railway business' compliance with accounting separation legislation and directives

1.3.1 Having reviewed the extent to which Member States appeared to have transposed the directives relating to accounting separation, we then assessed the extent to which financial reports prepared by individual railway businesses are consistent with the directives.

1.3.2 Table 3 below summarises our findings for individual railway businesses.

Table 3 Compliance of Railway Undertakings and Infrastructure Managers with Accounting Separation Legislation and directives

Country	Company	Type	Article								
			Accounting separation	Required to publish separate accounts	Prohibition of transfer of public funds	Accounts reflective of this prohibition	Separated infrastructure division or entity	Accounting separation for freight	Required to publish separate freight accounts	Passenger PSO shown separately	Prohibition of transfer of PSO compensation
			6.1	6.1 (a)	6.1(1)	6.1.(2)	6.2	9.4(1)	9.4 (a)	9.4(2)	9.4(3)
AUS	Wiener Lokalbahn	INT	No	No	Yes	No	Yes	No	No	Yes	Yes
AUS	OBB	INT	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
BEL	Infrabel	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
BEL	SNCB	INT	Yes	Yes	Yes	No	Yes	No	Yes	No	Yes
BUL	BDZ	INT	Yes	Yes	Yes	No	Yes	No	No	No	Yes
BUL	NRIC	INT	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
CZR	SZDC	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
CZR	CD	PAS	Yes	Yes	Yes	No	Yes	No	No	No	Yes
DEN	Banedenmark	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
DEN	DSB	PAS	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
EIRE	Iarnrod Eireann	INT	Partial	No	Yes	No	Yes	No	No	No	Yes
EST	Edelaraudtee AS	INF	Yes	No	Yes	No	Yes	No	No	No	Yes
EST	Eesti Raudtee AS	INT	No	No	Yes	No	Yes	No	No	Yes	Yes
EST	Elektriraudtee AS	PAS	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
FIN	RHK	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
FIN	VR Group	INT	Yes	Yes	Yes	No	Yes	No	No	No	Yes
FRA	RFF	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
FRA	SNCF	INT	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
GER	Railion Deutschland	FRE	Yes	Yes	No	No	Yes	Yes	No	Yes	Yes
GER	DB Holding	INT	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
GER	DB Fernverkehr	PAS	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
GER	DB Regio	PAS	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
GER	DB Netz	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
GRE	EDISY	INF	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes
GRE	ERGOSE	INF	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes
GRE	TRAINOSE SA	PAS	Yes	No	Yes	Yes	Yes	No	No	Yes	Yes
HUN	Gysev Hungary	INT	Yes	No	Yes	No	Yes	Yes	No	No	Yes
HUN	MAV Group	PAS	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
ITA	RFI	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
ITA	Ferrovie dello Sato	INT	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
ITA	FNM	INT	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
ITA	Trenitalia	INT	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
LAT	LDZ	INT	No	No	Yes	No	Yes	No	No	No	Yes
LAT	PV	PAS	Yes	Partial	Yes	No	Yes	Yes	Yes	No	Yes
LIT	LG Lithuania	INT	No	No	Yes	No	Yes	No	No	No	Yes
LUX	CFL Cargo	FRE	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
LUX	CFL Group	INT	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
NTL	Railion Nederland	FRE	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
NTL	Prorail	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
NTL	Nederlandse Spoorwegen	PAS	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
POL	PCC	FRE	No	No	Yes	No	Yes	No	No	Yes	Yes
POL	PKP Group	INT	No	No	Yes	No	Yes	No	Yes	No	Yes
POR	REFER	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
POR	CP	INT	Yes	Yes	Yes	No	Yes	No	No	No	Yes
ROM	CFR Marfa SA	FRE	Yes	No	Yes	Yes	Yes	Yes	No	Yes	Yes
ROM	CFR Calatori	PAS	Yes	No	Yes	No	Yes	Yes	Yes	No	Yes
SLK	ZSSK Cargo	FRE	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
SLK	ZSR	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
SLK	ZSSK	PAS	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
SLO	SZ	INT	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
SPA	ADIF	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
SPA	FGC	INF	Yes	Yes	Yes	No	Yes	No	No	No	Yes
SPA	Euskotren	INT	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
SPA	RENFE	INT	Yes	Yes	Yes	No	Yes	No	Yes	No	Yes
SWE	Green Cargo	FRE	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
SWE	Banverket	INF	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
SWE	SJ	PAS	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes
UK	Freight Companies	FRE	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
UK	Infrastructure Management	INF	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
UK	Infrastructure Management (Channel Tunnel)	INT	No	No	Yes	No	Yes	Yes	Yes	Yes	Yes
UK	Passenger Companies	PAS	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes

1.3.3 Table 3 indicates that very few companies are wholly compliant with the requirements of the accounting separation directives. Indeed, only 5 companies reviewed were wholly compliant. A detailed explanation of our review of each company is included in the relevant country chapter. Our overall findings are summarised below:

- Article 6.1(a) – A number of companies prepare separated accounts but did not publish them. We obtained these accounts directly from the companies.
- Article 6.1(2) – All companies, with the exception of Network Rail, produce the separated accounts within their statutory accounts. The statutory accounts do not provide sufficient information to analyse the transfer of public funds and, hence, the accounts are not kept in a way which reflects the prohibition of the transfer of public funding. The only firms, in addition to Network Rail, which were compliant with this point were independent freight companies and other independent companies which received no public funding.
- Article 9.4(2) – Whilst many of the passenger companies include public funding for PSOs in their accounts, they do not provide a disaggregation of this figure by individual contracts and, in line with the Commission's guidelines, we have indicated non compliance.
- Article 9.4(3) – Very few of the accounts provide sufficient details of the use of public funds to enable us to complete a full analysis.

1.3.4 It should be noted that our analysis is based on accounts in the public domain, information provided in response to questionnaires sent to the regulators, government ministries and the regulated companies.

1.3.5 In some cases it may be the case that further accounting separation information is prepared which meets the regulatory requirements. We therefore recommend that the Commission considers obtaining further information regarding the compliance of these companies with legislation.

1.4 Cross-subsidies and Railways

1.4.1 Previous studies have used financial accounts to identify potential cross-subsidies between railway businesses. [2]

1.4.2 Whilst such an approach has some merits, accounting losses and profits, as currently reported in separated accounts of railway businesses are unlikely to show measures of costs and profits correctly identifying whether or not cross-subsidisation is taking place.

1.4.3 Two examples of how the accounting treatment of costs may not be appropriate are asset valuations and applicable cost standards:

- *Asset valuation*. A significant cost for Infrastructure Managers and Railway Undertakings is depreciation of fixed assets. Changes in the basis of valuation of the rail network can have a significant impact on the annual depreciation charge affecting both profitability and potentially charges. In other regulated sectors this issue is often addressed by the use of current cost accounts which annually revalue the cost of the network.
- *Cost standards*. A generally accepted cost definition which is applicable in assessing cross subsidies is marginal cost. For example marginal costing has been established by the Commission as a relevant measure for calculating track access charges. However, financial accounting processes used to prepare statutory accounts do not typically calculate marginal costs and so separated accounts shown in the statutory accounts will be unable to provide an insight into this key measure of cost without which the identification of cross-subsidies is not possible.

1.4.4 Given the difficulties associated with accounting measures of costs and profitability, we recommend that the Commission considers setting clear guidelines on accounting separation for railway businesses which include valuation methodologies and cost standards.

1.5 Public funding and railways

1.5.1 Previous studies have noted the difficulties in identifying the extent of public funding of railways.[3]

1.5.2 In this report we have identified public funding of railways where this information has been provided in the separated accounts or where we have obtained information from other sources.

1.5.3 A key problem we have identified in the accounting for public funding is the lack of transparency in the treatment of government funding. One particular problem that arises is the different possible treatments of government grants that are allowed under international accounting standards. Grants used to fund ‘capital items’ may be either treated as income over the life of the asset or used to reduce the cost of the asset shown in the balance sheet on the date of acquisition.[4]

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[2] For example see *Analysis of the financial situation of railway undertakings in the European Union*, Report for the European Commission, Ecorys 2006

[3] For example see *Railimplement – Implementation of EU directives 2001/12/EC, 2001/13EC and 2001/14EC* Report For European Commission Steer Davies Gleave November 2005 page 72

[4] See International Accounting Standard No.20 Accounting for Government Grants

1.5.4 In our view, the Commission should consider setting guidelines on the reporting required for public funding of railways including, for example, guidance on how capital grants should be shown in the separated accounts. This will require additional cashflow information detailing the different sources of all public funds and the use of those funds by different rail activities. This information is currently not shown in the separated accounts of rail infrastructure managers and railway undertakings.

1.5.5 In addition, we note the Commission's guidelines on use of state aid for railway undertakings. Guidelines for separated accounts for railway undertakings could usefully incorporate the assessment of state aid issues, for example by setting out the details of any arrangements for debt cancellation.

1.6 Financial Performance of railway businesses

1.6.1 We have compiled a significant amount of financial data for railway businesses, some of which is presented in the tables below. This information has also been provided in the form of a database which may prove useful in further financial analysis of the railway undertakings and infrastructure managers. The summary data is provided for 2007 only; our analysis of data for 2004-2007 is included in the country chapters.

1.6.2 It should be noted that this does not represent all the companies we have studied in depth as financial information for 2007 was not available or was insufficient for inclusion.

1.6.3 Furthermore, the group of integrated companies below (Table 10 and Table 11) represent not only those traditionally considered integrated (i.e. transport activities and infrastructure management), but those that provide any combination of passenger, freight and infrastructure activities. Please see the individual country chapters for further analysis and clarification of their structure and activities.

1.6.4 Where appropriate we have included the groups' holding companies in the table of integrated companies, but have omitted the consolidated group accounts.[5] In some cases the data for the consolidated groups are available for viewing in the relevant country chapters.

[5] This was under the advice of the European Commission.

Table 4 Freight Operators summary financial Data[6]

2007 Summary financial data — Metric

Company Name	Country	Category	Million Euros									
			Total revenue	Revenue from Passenger transport	Revenues from Freight transport	Revenue from infrastructure charges	Total subsidisation	Wages, Salaries, Social Security Payments	Operating costs	Operating profit	Financial expenses	P&L on ordinary activities before tax
CFL Cargo	LUX	FRE	124	0	117	0	0	3	134	-10	0	-10
Rail Cargo Austria AG	AUS	FRE	2,417	0	2,417	0	110	-378	-2,014	25	-11	13
SNCB	BEL	FRE	461	0	449	0	0	-	379	82	-1	86
Railion Deutschland	GER	FRE	3,815	0	2,749	0	6	878	3,619	196	48	182
MAV Cargo	HUN	FRE	355	0	347	0	0	606	354	2	4	5
Trenitalia (Frieght)	ITA	FRE	1,009	0	769	0	139	606	1,329	-319	0	-319
Railion Nederland	NTL	FRE	169	0	160	0	0	61	172	-3	1	-4
PKP Cargo	POL	FRE	1,273	0	0	0	0	-	1,275	-2	8	6
CFR Marfa SA	ROM	FRE	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂
ZSSK Cargo	SLK	FRE	459	0	404	0	3	114	462	-3	13	-7
RENFE (Freight)	SPA	FRE	371	0	336	0	0	119	379	-8	8	-56
Green Cargo	SWE	FRE	666	0	661	0	0	179	634	32	10	27
HUPAC	SWI	FRE	43	0	43	0	0	-	38	5	1	5
Direct Rail Services	UK	FRE	58	0	56	0	1	18	58	0	1	-1
EWS	UK	FRE	465	0	0	0	0	168	480	-15	10	-4
First GBRf	UK	FRE	52	0	52	0	0	17	49	3	0	3
Freightliner HH	UK	FRE	135	0	134	0	0	39	118	17	0	17
Freightliner Ltd	UK	FRE	242	0	212	0	25	56	226	17	4	13

Company Name	Million Euros											No. / Km			
	Total fixed assets	Long term receivables	Total current assets	Trade debtors	Other debtors	Current asset investments	Cash at bank and in hand	Creditors: <1yr (Current Liabilities)	Creditors: >1yr	Provisions for liabilities and charges	Equity	Average no. employees	Passenger-kilometres (m)	Tonne-kilometres (m)	Managed kilometres
CFL Cargo	67	0	101	5	24	0	71	32	4	1	131	-	0	0	0
Rail Cargo Austria AG	507	522	928	376	48	89	315	604	380	91	880	8,121	0	19,431	0
SNCB	596	10	315	186	83	0	0	94	20	35	0	-	0	0	0
Railion Deutschland	2,145	0	410	99	280	0	0	580	981	530	464	20,035	0	91,013	0
MAV Cargo	130	0	88	0	71	0	0	90	1	1	126	0	0	7,759	0
Trenitalia (Frieght)	963	0	1,235	219	185	783	0	2,774	543	0	-1,119	-	0	23,253	0
Railion Nederland	27	0	55	30	18	0	4	73	13	4	-4	1,121	0	31,900	0
PKP Cargo	0	0	0	0	0	0	0	0	0	0	0	44,070	0	40,700	0
CFR Marfa SA	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂
ZSSK Cargo	580	0	99	73	11	0	1	211	75	46	347	10,813	0	18,979	0
RENFE (Freight)	0	0	0	0	0	0	0	0	0	0	0	2,066	0	10,547	0
Green Cargo	223	0	182	66	8	69	22	105	125	1	173	3,050	0	0	0
HUPAC	85	0	11	0	5	0	5	11	21	27	37	-	0	0	0
Direct Rail Services	29	0	14	8	0	0	1	7	12	0	24	291	0	0	0
EWS	541	0	224	83	4	0	5	230	216	86	271	3,988	0	0	0
First GBRf	5	0	19	9	2	0	0	16	0	0	8	247	0	0	0
Freightliner HH	30	0	28	17	0	0	0	23	23	2	6	539	0	0	0
Freightliner Ltd	129	0	99	18	0	0	1	49	73	13	91	1,116	0	0	0

[6] Financial information for CFR Marfa has been redacted at the request of the company.

Table 5 Freight Operators financial ratios[7]

Company Name	Country	Category	2007 Financial indicators																								
			Metric																								
			Performance				Profitability					Efficiency							Indebtedness						Public funding		
			Revenues (€m)	Net profit (€m)	Operating profit (€m)	Total assets (€m)	Operating profit margin	Net margin	Return on assets	Return on equity	Viability ratio	Liabilities / operating costs	Cost per staff member (€ '000)	Staff costs as a proportion of operating costs	Unit operating costs (€ '000)	Total Revenue per Passenger Km (€)	Total Revenue per Freight Km (€)	Total revenue per managed km (€m)	Total debt of the company (€m)	Debt / Total liabilities	Debt: Equity ratio	Quick ratio	Current ratio	Debt service coverage ratio	Total public income (€m)	Public funding / costs	Public funding / revenue
CFL Cargo	LUX	FRE	124	-10	-10	168	-8%	-8%	-6%	-8%	0.93	0.3	-	2%	-	-	-	-	13	37%	0.1	3.2	3.2	-40.6	0	0%	0%
Rail Cargo Austria AG	AUS	FRE	2,417	13	25	1,956	1%	1%	1%	2%	1.01	0.4	295	16%	0	0.00	0.12	0.00	545	51%	0.6	1.4	1.5	0.8	110	5%	5%
SNCB	BEL	FRE	461	86	82	921	18%	19%	9%	-	1.22	0.4	-	-	-	-	-	-	-	-	-	2.9	3.4	-58.1	0	0%	0%
Railion Deutschland	GER	FRE	3,815	182	196	2,555	5%	5%	7%	39%	1.05	0.6	181	24%	40	-	0.04	-	1,468	70%	3.2	0.7	0.7	4.1	6	0%	0%
MAV Cargo	HUN	FRE	355	5	2	217	1%	1%	2%	4%	1.01	0.3	-	14%	46	-	0.05	-	0	0%	0.0	0.8	1.0	0.5	0	0%	0%
Trenitalia (Frieght)	ITA	FRE	1,009	-319	-319	2,198	-32%	-32%	-15%	29%	0.76	2.5	-	0%	57	-	0.04	-	160	5%	-0.1	0.4	0.4	-	139	10%	14%
Railion Nederland	NTL	FRE	169	-4	-3	82	-2%	-3%	-5%	106%	0.98	0.5	153	35%	5	-	0.01	-	0	0%	0.0	0.7	0.7	-3.2	0	0%	0%
PKP Cargo	POL	FRE	1,273	6	-2	0	0%	1%	0%	0%	1.00	0.0	-	-	0	0.00	0.03	0.00	0	0%	0.0	0.0	0.0	0.0	0	0%	0%
CFR Marfa SA	ROM	FRE	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂	✂
ZSSK Cargo	SLK	FRE	459	-7	-3	679	-1%	-2%	-1%	-2%	0.99	0.7	43	25%	24	-	0.02	-	173	52%	0.5	0.4	0.5	-0.2	3	1%	1%
RENFE (Freight)	SPA	FRE	371	-56	-8	0	-2%	-15%	-	-	0.98	0.0	183	31%	36	-	0.04	-	0	-	-	-	-	-1.0	0	0%	0%
Green Cargo	SWE	FRE	666	27	32	405	5%	4%	7%	15%	1.05	0.4	208	28%	-	-	-	-	1	0%	0.0	1.6	1.7	3.3	0	0%	0%
HUPAC	SWI	FRE	43	5	5	96	12%	13%	6%	15%	1.14	1.5	-	-	-	-	-	-	7	12%	0.2	0.9	1.0	6.2	0	0%	0%
Direct Rail Services	UK	FRE	58	-1	0	43	0%	-2%	-2%	-4%	1.00	0.3	198	31%	-	-	-	-	19	100%	0.8	1.3	1.9	0.0	1	2%	2%
EWS	UK	FRE	465	-4	-15	765	-3%	-1%	-1%	-1%	0.97	1.1	120	35%	-	-	-	-	445	84%	1.6	0.4	1.0	-1.5	0	0%	0%
First GBRf	UK	FRE	52	3	3	24	6%	6%	13%	40%	1.06	0.3	199	34%	-	-	-	-	16	100%	2.0	0.6	1.2	-	0	0%	0%
Freightliner HH	UK	FRE	135	17	17	58	13%	13%	29%	263%	1.14	0.4	220	33%	-	-	-	-	46	96%	7.1	0.8	1.2	58.2	0	0%	0%
Freightliner Ltd	UK	FRE	242	13	17	228	7%	5%	6%	14%	1.07	0.6	202	25%	-	-	-	-	122	91%	1.4	0.4	2.0	3.8	25	11%	10%

[7] Financial information for CFR Marfa has been redacted at the request of the company.

Table 6 Infrastructure Managers' summary financial data

Company Name	Country	Category	2007 Summary financial data																								
			Metric																								
			Million Euros																					No. / Km			
			Total revenue	Revenue from Passenger transport	Revenues from Freight transport	Revenue from infrastructure charges	Total subsidisation	Wages, Salaries, Social Security Payments	Operating costs	Operating profit	Financial expenses	P&L on ordinary activities before tax	Total fixed assets	Long term receivables	Total current assets	Trade debtors	Other debtors	Current asset investments	Cash at bank and in hand	Creditors: <1yr (Current Liabilities)	Creditors: >1yr	Provisions for liabilities and charges	Equity	Average no. employees	Passenger-kilometres (m)	Tonne-kilometres (m)	Managed kilometres
OBB Infrastruktur Bau AG	AUS	INF	1,680	0	0	463	65	-333	-910	437	-373	64	10,261	1,118	567	279	119	142	12	1,359	9,507	164	915	6,709	0	0	0
OBB Infrastruktur Betrieb AG	AUS	INF	1,545	0	0	418	1,006	-627	-908	10	16	26	150	228	192	85	39	46	16	181	48	68	273	12,681	0	0	5,702
Infrabel	BEL	INF	1,501	0	0	0	435	701	1,534	-33	28	71	4,992	8	1,204	429	0	576	0	681	0	90	5,432	12,266	0	0	3,374
SZDC	CZR	INF	765	0	0	240	352	13	702	63	52	36	3,144	0	301	40	54	0	121	242	1,399	0	1,803	638	0	0	9,483
Banedenmark	DEN	INF	543	0	0	88	0	52	157	385	0	385	0	0	0	0	0	0	0	0	0	0	0	2,060	0	0	2,300
Edelaraudtee Infrastruktuuri AS	EST	INF	5	0	0	5	0	1	5	0	0	0	9	0	1	0	1	0	0	1	0	0	10	0	0	0	300
RHK	FIN	INF	52	0	0	0	409	7	347	-294	0	-294	3,163	0	12	12	0	0	0	68	0	0	3,107	114	0	0	5,899
RFF	FRA	INF	4,086	0	0	2,450	931	58	4,094	-8	1,376	-637	26,688	0	5,130	1,061	772	58	1,294	8,509	36,467	35	-13,192	843	0	0	0
DB Netz	GER	INF	5,558	0	0	3,792	218	1,581	5,077	481	-335	146	21,463	30	1,080	171	578	0	27	2,547	10,079	2,400	6,545	36,058	0	0	33,897
EDISY	GRE	INF	243	0	0	55	0	260	414	-171	0	-196	0	0	262	123	27	0	9	63	127	1	72	5,087	0	0	2,746
ERGOSE	GRE	INF	593	0	0	0	0	12	590	3	0	4	17	0	132	20	28	0	84	116	1	4	28	0	0	0	0
MAV (Infrastructure)	HUN	INF	538	0	0	269	101	209	552	-14	19	-31	1,794	0	141	2	63	0	0	191	1,788	33	-77	0	0	0	0
MAV Traction	HUN	INF	301	0	0	0	6	94	287	13	7	7	713	0	122	1	110	0	0	297	420	8	109	0	0	0	0
RFI	ITA	INF	3,838	0	0	1,050	1,154	1,590	4,013	-175	26	-183	62,254	3,150	6,241	271	3,637	0	2,169	5,982	3,751	28,347	33,565	33,654	0	0	16,336
Prorail	NTL	INF	1,601	0	0	207	783	151	1,503	98	68	30	17,219	0	974	50	96	0	796	82	13,079	175	4,857	2,747	0	0	6,830
PKP Polskie Linie Kolejowe SA	POL	INF	773	0	0	572	2	-	787	-14	7	-21	3,746	-	-	-	-	-	-	-	-	-	0	42,234	0	0	27,580
REFER	POR	INF	116	0	0	73	0	86	213	-97	224	-163	892	40	171	122	1	35	0	721	1,600	11	974	3,579	0	0	2,842
ZSR	SLK	INF	1,016	0	0	0	772	194	468	549	10	563	2,167	1	96	0	0	0	11	670	98	112	1,386	17,982	0	0	3,658
ADIF	SPA	INF	2,218	0	0	1,576	487	649	2,372	-154	162	-139	20,617	0	6,192	0	0	2,770	208	2,085	3,077	169	13,802	14,141	0	0	-
FGC	SPA	INF	-	-	-	-	-	-	10	-10	-	-10	328	0	12	12	0	0	0	22	132	0	184	0	0	0	345
Banverket	SWE	INF	1,018	0	0	61	0	407	1,154	-136	68	-201	10,719	1	416	92	94	0	190	415	1,646	35	9,041	6,518	0	0	0
Network Rail	UK	INF	8,463	0	0	3,395	4,662	2,002	5,038	3,425	1,440	2,268	46,780	0	2,346	452	277	78	771	10,715	28,241	0	10,170	34,770	0	0	15,814

Table 7 Infrastructure Managers' financial ratios

Company Name	Country	Category	Revenues (€m)	Net profit (€m)	Operating profit (€m)	Total assets (€m)	Operating profit margin	Net margin	Return on assets	Return on equity	Viability ratio	Liabilities / operating costs	Cost per staff member (€ '000)	Staff costs as a proportion of operating costs	Unit operating costs (€ '000)	Total Revenue per Passenger Km (€)	Total Revenue per Freight Km (€)	Total revenue per managed km (€m)	Total debt of the company (€m)	Debt / Total liabilities	Debt: Equity ratio	Quick ratio	Current ratio	Debt service coverage ratio	Total public income (€m)	Public funding / costs	Public funding / revenue
			2007 Financial indicators																								
			Metric																								
			Performance				Profitability					Efficiency							Indebtedness						Public funding		
OBB Infrastruktur Bau AG	AUS	INF	1,680	64	437	11,946	26%	4%	1%	7%	1.35	8.9	185	27%	0	0.00	0.00	0.00	10,011	91%	10.9	0.4	0.4	0.9	65	5%	4%
OBB Infrastruktur Betrieb AG	AUS	INF	1,545	26	10	571	1%	2%	5%	10%	1.01	0.2	121	41%	0	0.00	0.00	0.27	76	25%	0.3	1.0	1.1	1.2	1,006	66%	65%
Infrabel	BEL	INF	1,501	71	-33	6,204	-2%	5%	1%	1%	0.98	0.5	125	46%	455	-	-	0.44	0	0%	0.0	1.5	1.8	-1.2	435	28%	29%
SZDC	CZR	INF	765	36	63	3,445	8%	5%	1%	2%	1.09	2.3	1,101	2%	74	-	-	0.08	1,479	90%	0.8	0.9	1.2	1.2	352	50%	46%
Banedenmark	DEN	INF	543	385	385	0	71%	71%	-	-	3.45	0.0	76	33%	68	-	-	0.24	0	-	-	-	-	-	0	0%	0%
Edelaraudtee Infrastruktuuri AS	EST	INF	5	0	0	10	6%	7%	3%	4%	1.06	0.1	-	25%	17	-	-	0.02	0	21%	0.0	2.1	2.3	26.7	0	0%	0%
RHK	FIN	INF	52	-294	-294	3,174	-564%	-564%	-9%	-9%	0.15	0.2	3,041	2%	59	-	-	0.01	0	0%	0.0	0.2	0.2	-16,356.9	409	118%	783%
RFF	FRA	INF	4,086	-637	-8	31,819	0%	-16%	-2%	5%	1.00	11.0	4,856	1%	-	-	-	-	41,040	91%	-3.1	0.4	0.6	0.0	931	23%	23%
DB Netz	GER	INF	5,558	146	481	22,573	9%	3%	1%	2%	1.09	3.0	141	31%	150	-	-	0.16	11,228	75%	1.7	0.3	0.4	-1.4	218	4%	4%
EDISY	GRE	INF	243	-196	-171	262	-70%	-81%	-75%	-273%	0.59	0.5	81	63%	151	-	-	0.09	127	66%	1.8	2.5	4.2	-77,338.0	0	0%	0%
ERGOSE	GRE	INF	593	4	3	149	0%	1%	3%	15%	1.00	0.2	-	2%	-	-	-	-	0	0%	0.0	1.1	1.1	9.7	0	0%	0%
MAV (Infrastructure)	HUN	INF	538	-31	-14	1,935	-3%	-6%	-2%	40%	0.97	3.6	-	38%	-	-	-	-	44	2%	-0.6	0.3	0.7	-0.8	101	18%	19%
MAV Traction	HUN	INF	301	7	13	835	4%	2%	1%	6%	1.05	2.5	-	33%	-	-	-	-	121	17%	1.1	0.4	0.4	2.0	6	2%	2%
RFI	ITA	INF	3,838	-183	-175	71,645	-5%	-5%	0%	-1%	0.96	9.5	119	40%	246	-	-	0.23	1,777	5%	0.1	1.0	1.0	-6.6	1,154	29%	30%
Prorail	NTL	INF	1,601	30	98	18,193	6%	2%	0%	1%	1.07	8.9	547	10%	220	-	-	0.23	0	0%	0.0	11.5	11.9	1.4	783	52%	49%
PKP Polskie Linie Kolejowe SA	POL	INF	773	94	-14	0	-2%	12%	0%	0%	0.98	0.0	0	-	3	0.00	0.00	3.39	0	0%	0.0	0.0	0.0	0.0	2	2%	21%
REFER	POR	INF	116	-163	-97	1,995	-84%	-141%	-8%	-17%	0.54	11.0	59	40%	75	-	-	0.04	2,082	89%	2.1	0.2	0.2	-0.4	0	0%	0%
ZSR	SLK	INF	1,016	563	549	2,265	54%	55%	25%	41%	2.17	1.9	26	42%	128	-	-	0.28	83	9%	0.1	0.0	0.1	57.2	772	165%	76%
ADIF	SPA	INF	2,218	-139	-154	26,845	-7%	-6%	-1%	-1%	0.94	2.2	168	27%	-	-	-	-	4,669	88%	0.3	1.4	3.0	-1.0	487	21%	22%
FGC	SPA	INF	0	-10	-10	340	-3439%	-3439%	-3%	-5%	0.03	15.7	-	-	29	-	-	0.00	146	94%	0.8	0.5	0.5	-	0	3%	100%
Banverket	SWE	INF	1,018	-201	-136	11,137	-13%	-20%	-2%	-2%	0.88	1.8	177	35%	-	-	-	-	1,436	69%	0.2	0.9	1.0	-2.0	0	0%	0%
Network Rail	UK	INF	8,463	2,268	3,425	49,126	40%	27%	5%	22%	1.68	7.7	145	40%	319	-	-	0.54	38,956	100%	3.8	0.1	0.2	2.4	4,662	93%	55%

Table 8 Passenger Operators’ summary financial data

			2007 Summary financial data																							
			Metric																								
			Million Euros																				No. / Km			
Company Name	Country	Category	Total revenue	Revenue from Passenger transport	Revenues from Freight transport	Revenue from infrastructure charges	Total subsidisation	Wages, Salaries, Social Security Payments	Operating costs	Operating profit	Financial expenses	P&L on ordinary activities before tax	Total fixed assets	Long term receivables	Total current assets	Trade debtors	Other debtors	Current asset investments	Cash at bank and in hand	Creditors: <1yr (Current Liabilities)	Creditors: >1yr	Provisions for liabilities and charges	Equity	Average no. employees	Passenger-kilometres (m)	Tonne-kilometres (m)	Managed kilometres
OBB Personenverkehr AG	AUS	PAS	1,996	1,996	0	0	468	-721	-1,240	35	-56	-22	2,685	1,319	578	189	86	142	150	2,568	560	103	1,351	14,072	12,326	0	0
SNCB	BEL	PAS	1,803	1,755	0	0	844	-	1,902	-99	3	16	2,071	29	678	128	341	0	0	427	0	140	2,108	-	8,851	0	0
CD	CZR	PAS	1,740	226	641	0	339	754	1,734	6	18	2	1,936	0	199	72	8	0	24	337	232	11	1,555	56,672	6,855	33,404	0
DSB	DEN	PAS	1,405	1,159	0	0	1,038	442	1,232	173	68	115	2,926	0	397	47	171	27	89	851	1,128	283	1,060	9,196	5,851	0	0
Elektriraudtee AS	EST	PAS	6	2	0	0	3	2	6	0	0	0	8	0	0	0	0	0	0	2	3	0	3	174	0	0	0
DB Fernverkehr	GER	PAS	3,382	3,012	0	0	8	586	3,251	131	36	121	2,815	0	748	41	661	0	0	621	157	697	2,082	13,643	32,000	0	0
DB Regio	GER	PAS	5,440	1,782	0	0	3,458	862	5,129	311	51	503	4,176	0	397	82	265	0	0	973	753	1,025	1,823	19,520	25,600	0	0
MAV	HUN	PAS	400	122	0	0	7	35	388	12	27	-14	3	0	14	1	5	0	0	306	0	0	-289	0	0	0	0
Trenitalia (Passenger)	ITA	PAS	5,642	3,959	761	0	2,069	2,190	6,031	-389	270	-633	8,524	1	2,929	1,122	931	196	5	3,065	7,355	0	1,033	0	45,881	23,253	0
PV	LAT	PAS	0	0	0	0	37	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NSB AS	NOR	PAS	506	487	0	0	0	165	477	29	0	41	920	427	145	6	5	89	30	205	397	0	890	2,682	0	0	0
Nederlandse Spoorwegen	NTL	PAS	4,040	2,413	0	0	0	1,211	3,685	355	56	416	4,062	0	3,482	1,243	0	1,815	291	2,130	1,054	0	4,360	26,004	15,546	0	0
PKP Intercity	POL	PAS	237	0	0	0	16	-	226	11	0	11	224	0	0	0	0	0	0	0	0	0	0	2,516	3,897	0	0
PKP Regional	POL	PAS	601	0	0	0	242	-	589	12	5	7	0	0	0	0	0	0	0	0	0	0	0	16,471	13,080	0	0
CFR Calatori	ROM	PAS	653	587	0	0	280	119	693	-40	21	-41	951	0	177	56	99	0	6	272	846	2	8	0	7,417	0	0
ZSSK	SLK	PAS	249	75	0	0	161	54	249	0	17	-4	399	0	44	15	1	0	13	30	184	9	220	4,864	2,148	0	0
RENFE	SPA	PAS	1,705	1,286	0	0	326	407	1,522	-42	47	-123	0	0	0	0	0	0	0	0	0	0	0	12,272	19,966	0	0
SJ	SWE	PAS	894	849	0	0	0	240	804	90	22	77	701	79	309	76	70	0	154	193	465	32	400	4,053	5,384	0	0
Arriva Trains Wales	UK	PAS	363	109	0	0	216	96	349	14	0	18	36	0	66	26	10	0	24	70	2	0	26	2,048	953	0	0
c2c	UK	PAS	156	140	0	0	25	25	158	-2	1	-10	18	0	52	9	5	0	28	77	1	1	-9	602	917	0	0
Chiltern Railways	UK	PAS	180	133	0	0	33	41	191	15	2	15	62	0	42	1	6	0	10	86	2	12	4	725	897	0	0
CrossCountry	UK	PAS	697	398	0	0	269	88	696	1	1	4	1	0	170	93	16	0	38	153	13	0	4	1,680	2,925	0	0
East Midlands (then Midland Mainline)	UK	PAS	270	232	0	0	0	48	243	31	0	37	0	0	105	10	2	0	0	23	0	0	82	992	1,598	0	0
Eurostar UK	UK	PAS	390	0	0	0	0	78	671	-281	18	-293	85	0	168	13	82	0	8	2,248	465	67	-2,527	1,376	0	0	0
First Capital Connect	UK	PAS	576	576	0	0	0	106	551	25	9	32	35	0	155	37	0	0	105	174	0	0	7	2,059	3,212	0	0
First Greater Western	UK	PAS	1,038	1,038	0	0	0	218	1,018	21	19	29	112	-	131	49	0.1	-	43	218	0	0	6	4,454	4,736	0	0
First Scotrail	UK	PAS	732	294	0	0	401	164	715	17	16	24	62	0	183	17	4	0	63	198	16	6	24	4,113	2,406	0	0
First Transpennine	UK	PAS	312	151	0	0	149	52	269	42	0	46	16	0	105	18	3	0	74	92	12	2	14	1,000	1,070	0	0
Gatwick Express	UK	PAS	99	99	0	0	0	14	98	1	0	2	0	0	27	2	2	0	18	19	0	0	8	287	220	0	0
Heathrow Express	UK	PAS	75	75	0	0	0	20	68	7	0	11	0	0	64	3	2	0	0	14	0	0	51	341	0	0	0
London Midland	UK	PAS	314	0	0	0	0	70	307	7	0	9	22	0	64	29	8	0	18	65	0	1	19	2,501	592	0	0
Merseyrail	UK	PAS	169	0	0	0	0	48	158	12	0	13	17	0	26	2	3	1	11	29	5	4	5	1,134	0	0	0
Northern Rail	UK	PAS	776	213	0	0	509	205	754	23	0	31	35	0	110	20	12	0	53	117	12	-1	17	4,555	1,832	0	0
NX East Anglia	UK	PAS	719	685	0	0	0	143	705	14	0	25	32	0	235	29	17	0	141	208	1	3	44	3,103	3,946	0	0
NXEC (then GNER)	UK	PAS	808	729	0	0	0	125	792	17	3	27	0	0	33	0	18	0	14	11	0	0	22	2,627	4,310	0	0
South West Trains	UK	PAS	1,146	0	0	0	265	190	1,075	71	14	86	0	0	32	0	0	0	0	1	0	0	31	5,101	4,898	0	0
Southeastern	UK	PAS	800	0	0	0	0	172	762	37	1	48	59	0	190	33	15	0	87	183	12	0	55	3,849	3,844	0	0
Southern	UK	PAS	765	0	0	0	0	170	715	50	1	61	10	0	211	17	47	0	84	211	3	1	5	3,710	3,422	0	0
West Coast	UK	PAS	1,118	826	0	0	170	145	1,015	103	3	115	2	35	312	34	29	0	215	266	30	19	35	2,806	4,214	0	0

Table 9 Passenger Operators' financial ratios

Company Name	Country	Category	2007 Financial indicators																								
			Metric																								
			Performance				Profitability					Efficiency							Indebtedness						Public funding		
			Revenues (€m)	Net profit (€m)	Operating profit (€m)	Total assets (€m)	Operating profit margin	Net margin	Return on assets	Return on equity	Viability ratio	Liabilities / operating costs	Cost per staff member (€ '000)	Staff costs as a proportion of operating costs	Unit operating costs (€ '000)	Total Revenue per Passenger Km (€)	Total Revenue per Freight Km (€)	Total revenue per managed km (€m)	Total debt of the company (€m)	Debt / Total liabilities	Debt: Equity ratio	Quick ratio	Current ratio	Debt service coverage ratio	Total public income (€m)	Public funding / costs	Public funding / revenue
OBB Personenverkehr AG	AUS	PAS	1,996	-22	35	4,582	2%	-1%	0%	-2%	1.02	1.6	139	37%	0	0.16	0.00	0.00	2,642	82%	2.0	0.2	0.2	0.3	468	24%	23%
SNCB	BEL	PAS	1,803	16	-99	2,779	-5%	1%	1%	1%	0.95	0.3	-	-	215	0.20	-	-	0	0%	0.0	1.1	1.6	-34.0	844	44%	47%
CD	CZR	PAS	1,740	2	6	2,135	0%	0%	0%	0%	1.00	0.3	31	43%	253	0.25	0.05	-	100	17%	0.1	0.3	0.6	0.3	339	20%	20%
DSB	DEN	PAS	1,405	115	173	3,323	12%	8%	3%	11%	1.14	1.8	134	36%	211	0.24	-	-	1,417	63%	1.3	0.4	0.5	2.6	1,038	84%	74%
Elektriraudtee AS	EST	PAS	6	0	0	8	-5%	-5%	-3%	-10%	0.96	0.9	33	38%	-	-	-	-	4	83%	1.5	0.0	0.2	-10.5	3	50%	52%
DB Fernverkehr	GER	PAS	3,382	121	131	3,563	4%	4%	3%	6%	1.04	0.5	238	18%	102	0.11	-	-	694	47%	0.3	1.1	1.2	3.6	8	0%	0%
DB Regio	GER	PAS	5,440	503	311	4,573	6%	9%	11%	28%	1.06	0.5	263	17%	200	0.21	-	-	1,619	59%	0.9	0.4	0.4	6.1	3,458	67%	64%
MAV	HUN	PAS	400	-14	12	17	3%	-3%	-85%	5%	1.03	0.8	-	9%	-	-	-	-	294	96%	-1.0	0.0	0.0	0.4	7	2%	2%
Trenitalia (Passenger)	ITA	PAS	5,642	-633	-389	11,454	-7%	-11%	-6%	-61%	0.94	1.7	-	36%	131	0.12	0.24	-	3,035	29%	2.9	0.7	1.0	-1.4	2,069	34%	37%
PV	LAT	PAS	0	0	0	0	-	-	-	-	-	-	-	-	-	-	-	-	0	-	-	-	-	-	37	-	-
NSB AS	NOR	PAS	506	41	29	1,492	6%	8%	3%	5%	1.06	1.3	178	35%	-	-	-	-	369	61%	0.4	0.6	0.7	-	0	0%	0%
Nederlandse Spoorwegen	NTL	PAS	4,040	416	355	7,544	9%	10%	6%	10%	1.10	0.9	142	33%	237	0.26	-	-	0	0%	0.0	1.6	1.6	6.3	0	0%	0%
PKP Intercity	POL	PAS	237	45	11	0	5%	19%	0%	0%	1.05	0.0	-	-	12	0.06	0.00	0.00	0	0%	0.0	0.0	0.0	0.1	16	7%	7%
PKP Regional	POL	PAS	601	30	12	0	2%	5%	0%	0%	1.02	0.0	-	-	0	0.05	0.00	0.00	0	0%	0.0	0.0	0.0	0.4	242	41%	40%
CFR Calatori	ROM	PAS	653	-41	-40	1,128	-6%	-6%	-4%	-521%	0.94	1.6	-	17%	93	0.09	-	-	466	42%	59.7	0.6	0.7	-2.0	280	40%	43%
ZSSK	SLK	PAS	249	-4	0	443	0%	-2%	-1%	-2%	1.00	0.9	51	22%	116	0.12	-	-	26	12%	0.1	1.0	1.5	0.0	161	65%	65%
RENFE	SPA	PAS	1,705	-123	-42	0	-2%	-7%	-	-	1.12	0.0	124	27%	76	0.09	-	-	0	-	-	-	-	-0.9	326	21%	19%
SJ	SWE	PAS	894	77	90	1,089	10%	9%	7%	19%	1.11	0.9	198	30%	149	0.17	-	-	0	0%	0.0	1.6	1.6	4.0	0	0%	0%
Arriva Trains Wales	UK	PAS	363	18	14	102	4%	5%	17%	68%	1.04	0.2	170	27%	366	0.38	-	-	72	100%	2.8	0.8	0.9	347.0	216	62%	60%
c2c	UK	PAS	156	-10	-2	70	-1%	-6%	-14%	105%	0.99	0.5	262	16%	172	0.17	-	-	78	98%	-8.2	0.6	0.7	-1.6	25	16%	16%
Chiltern Railways	UK	PAS	180	15	15	104	8%	8%	14%	361%	0.94	0.5	264	21%	213	0.20	-	-	88	88%	21.3	0.2	0.5	7.0	33	17%	19%
CrossCountry	UK	PAS	697	4	1	171	0%	1%	2%	110%	1.00	0.2	414	13%	238	0.24	-	-	167	100%	44.0	1.0	1.1	1.3	269	39%	39%
East Midlands (then Midland Mainline)	UK	PAS	270	37	31	105	11%	14%	35%	46%	1.11	0.1	245	20%	152	0.17	-	-	23	100%	0.3	0.5	4.5	21,228.0	0	0%	0%
Eurostar UK	UK	PAS	390	-293	-281	253	-72%	-75%	-116%	12%	0.58	4.1	488	12%	-	-	-	-	2,713	98%	-1.1	0.0	0.1	-15.8	0	0%	0%
First Capital Connect	UK	PAS	576	32	25	190	4%	6%	17%	461%	1.05	0.3	268	19%	172	0.18	-	-	174	100%	25.3	0.8	0.9	2.8	0	0%	0%
First Greater Western	UK	PAS	1,038	29	21	243	2%	3%	12%	480%	1.02	0.2	0	21%	215	0.22	-	-	218	-	36.14	0.4	0.6	1.1	-	-	-
First Scotrail	UK	PAS	732	24	17	245	2%	3%	10%	103%	1.02	0.3	174	23%	297	0.30	-	-	215	97%	9.0	0.4	0.9	1.1	401	56%	55%
First Transpennine	UK	PAS	312	46	42	121	13%	15%	38%	327%	1.16	0.4	269	19%	252	0.29	-	-	105	98%	7.4	1.0	1.1	-	149	55%	48%
Gatwick Express	UK	PAS	99	2	1	28	1%	2%	7%	24%	1.01	0.2	342	14%	447	0.45	-	-	19	100%	2.3	1.2	1.4	139.0	0	0%	0%
Heathrow Express	UK	PAS	75	11	7	64	9%	14%	16%	21%	1.10	0.2	201	29%	-	-	-	-	14	100%	0.3	0.4	4.7	-	0	0%	0%
London Midland	UK	PAS	314	9	7	86	2%	3%	11%	48%	1.02	0.2	123	23%	519	0.53	-	-	65	98%	3.5	0.8	1.0	261.4	0	0%	0%
Merseyrail	UK	PAS	169	13	12	43	7%	8%	31%	261%	1.08	0.2	139	31%	-	-	-	-	34	89%	6.6	0.6	0.9	40.5	0	0%	0%
Northern Rail	UK	PAS	776	31	23	145	3%	4%	21%	185%	1.03	0.2	165	27%	411	0.42	-	-	130	101%	7.7	0.7	0.9	49.4	509	68%	66%
NX East Anglia	UK	PAS	719	25	14	268	2%	4%	10%	57%	1.02	0.3	227	20%	179	0.18	-	-	209	99%	4.7	0.9	1.1	1,413.9	0	0%	0%
NXEC (then GNER)	UK	PAS	808	27	17	33	2%	3%	83%	124%	1.02	0.0	301	16%	184	0.19	-	-	11	100%	0.5	2.9	3.0	5.4	0	0%	0%
South West Trains	UK	PAS	1,146	86	71	32	6%	8%	271%	282%	1.07	0.0	211	18%	219	0.23	-	-	1	100%	0.0	0.2	26.4	4.9	265	25%	23%
Southeastern	UK	PAS	800	48	37	249	5%	6%	19%	88%	1.05	0.3	198	23%	198	0.21	-	-	195	100%	3.6	0.7	1.0	56.6	0	0%	0%
Southern	UK	PAS	765	61	50	221	7%	8%	28%	1145%	1.07	0.3	193	24%	209	0.22	-	-	214	99%	39.9	0.7	1.0	41.6	0	0%	0%
West Coast	UK	PAS	1,118	115	103	349	9%	10%	33%	333%	1.10	0.3	362	14%	241	0.27	-	-	295	94%	8.5	1.0	1.2	39.5	170	17%	15%

Table 10 Integrated Operators’ summary financial data

Company Name	Country	Category	2007 Summary financial data																								
			Metric																								
			Million Euros																					No. / Km			
	Country	Category	Total revenue	Revenue from Passenger transport	Revenues from Freight transport	Revenue from infrastructure charges	Total subsidisation	Wages, Salaries, Social Security Payments	Operating costs	Operating profit	Financial expenses	P&L on ordinary activities before tax	Total fixed assets	Long term receivables	Total current assets	Trade debtors	Other debtors	Current asset investments	Cash at bank and in hand	Creditors: <1yr (Current Liabilities)	Creditors: >1yr	Provisions for liabilities and charges	Equity	Average no. employees	Passenger-kilometres (m)	Tonne-kilometres (m)	Managed kilometres
OBB Holding	AUS	INT	37	0	0	0	-	-13	-26	-2	-55	-58	1	3,241	187	0	107	80	0	3	196	33	3,198	0	0	0	0
Wiener Lokalbahn	AUS	INT	37	15	0	3	30	17	35	2	3	0	39	0	41	6	23	7	3	0	62	9	10	325	2	0	0
SNCB	BEL	INT	2,264	1,755	449	0	844	0.06	2,339	-75	-1	47	2,966	56	1,146	361	478	13	10	612	0	202	3,354	-	8,851	8,149	0
BDZ	BUL	INT	290	43	141	0	0	-	281	10	0	12	285	0	109	28	31	0	28	122	166	0	107	0	0	0	0
NRIC	BUL	INT	137	0	0	69	0	70	172	-34	5	-36	1,098	0	56	26	0	0	20	320	99	0	735	16,660	0	0	0
Eesti Raudtee SVR	EST	INT	116	72	72	23	0	31	98	18	5	13	223	0	33	16	3	0	4	46	88	1	122	2,279	0	0	0
VR	FIN	INT	1,383	370	340	0	0	492	1,298	85	1	91	1,241	5	347	116	5	122	9	211	46	2	1,334	12,540	3,778	10,434	0
SNCF	FRA	INT	23,691	12,799	7,726	4,532	5,671	8,895	22,011	1,680	871	809	32,284	0	15,565	2,797	8,561	2,807	618	22,085	17,038	491	8,235	201,545	0	0	0
TRAINOSE SA	GRE	INT	116	64	29		0	113	273	-157	0	-155	2	0	123	15	40	0	66	160	2	1	-39	1,909	1,930	835	
Gysev Hungary	HUN	INT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Iarnród Éireann	IRE	INT	452	189	10	0	203	269	434	18	5	13	1,308	0	222	15	3	0	0	387	1,045	55	44	4,985	-	-	2,288
LDZ	LAT	INT	395	0	0	0	29	300	343	52	4	48	349	1	66	18	0	0	14	63	150	0	203	13,620	0	0	2,166
LG Lithuania	LIT	INT	410	-	-	-	190	-	364	46	0	48	849	0	111	26	9	9	27	86	259	5	610	0	0	0	0
PKP Holding	POL	INT	255	-	-	-	12	-	243	12	7	19	-	-	-	-	-	-	-	209	1,056	-	-	3,243	-	-	-
PKP LHS	POL	INT	71	-	-	-	0	-	60	11	1	12	-	-	-	-	-	-	-	-	-	-	-	1,237	-	-	-
PKP SKM	POL	INT	26	-	-	-	7	-	26	0	0	0	28	-	-	-	-	-	-	-	-	-	-	869	750	0	0
CP	POR	INT	325	205	69		41	134	431	-106	101	-207	1,222	0	76	0	0	0	10	462	2,350	51	-1,823	4,223	3,610	2,586	
SZ	SLO	INT	352	73	129	101	41	187	331	21	0	23	818	0	118	0	0	0	0	725	150	0	62	7,936	812	3,944	0
Euskotren	SPA	INT	54	-	-		32	24	62	-9	1	-9	69	0	15	1	0	0	6	17	0	1	50	798	291	16	
FEVE	SPA	INT	164	-	-	0	118	73	163	-36	8	-44	674	0	72	9	0	11	1	89	215	7	436	1,961	201	460	0
FGC (F+P)	SPA	INT	129	71	3	0	48	69	167	-38	2	-39	609	0	104	100	0	0	2	67	51	1	591	0	770	25	0
FGC (I+F+P)	SPA	INT	129	71	3	0	48	69	167	-38	2	-39	609	0	104	100	0	0	2	67	51	1	591	0	770	25	
RENFE	SPA	INT	2,155	1,286	336	0	605	732	2,018	137	376	-239	4,976	68	1,268	140	0	0	1	1,439	2,667	105	2,103	14,338	19,966	10,547	0
SBB (Integrated)	SWI	INT	43	0	43	0	0	0	38	5	1	5	85	0	11	0	5	0	5	11	21	27	37	0	15,134	13,370	3,059
Channel Tunnel	UK	INT	403	-	-	136	-	-	262	141	189	-18	3,432	0	224	37	20	0	3	1,459	2,239	26	-69	-	-	-	-

Table 11 Integrated Operators' financial ratios

Company Name	Country	Category	2007 Financial indicators – Metric – Performance: Revenues (€m)	Net profit (€m)	Operating profit (€m)	Total assets (€m)	Profitability: Operating profit margin	Net margin	Return on assets	Return on equity	Viability ratio	Efficiency: Liabilities / operating costs	Cost per staff member (€ '000)	Staff costs as a proportion of operating costs	Unit operating costs (€ '000)	Total Revenue per Passenger Km (€)	Total Revenue per Freight Km (€)	Total revenue per managed km (€m)	Indebtedness: Total debt of the company (€m)	Debt / Total liabilities	Debt: Equity ratio	Quick ratio	Current ratio	Debt service coverage ratio	Public funding: Total public income (€m)	Public funding / costs	Public funding / revenue
OBB Holding	AUS	INT	37	-58	-2	3,430	-6%	-156%	-2%	-2%	0.94	5.9	0	33%	0	0.00	0.00	0.00	0	0%	0.0	56.2	56.1	-0.1	-	-	-
Wiener Lokalbahn	AUS	INT	37	0	2	80	6%	1%	0%	3%	1.06	2.0	108	47%	19,872	21.06	-	-	32	45%	3.3	-	-	0.8	30	85%	80%
SNCB	BEL	INT	2,264	47	-75	4,168	-3%	2%	1%	1%	0.97	0.3	-	-	264	0.26	0.28	-	0	0%	0.0	1.4	1.9	51.5	844	36%	37%
BDZ	BUL	INT	290	12	10	394	3%	4%	3%	12%	1.03	1.0	-	-	-	-	-	-	180	62%	1.7	0.7	0.9	-	0	0%	0%
NRIC	BUL	INT	137	-36	-34	1,155	-25%	-27%	-3%	-5%	0.80	2.4	10	41%	-	-	-	-	327	78%	0.4	0.1	0.2	-6.4	0	0%	0%
Eesti Raudtee SVR	EST	INT	116	13	18	256	15%	11%	5%	11%	1.18	1.4	43	31%	-	-	-	-	110	82%	0.9	0.5	0.7	3.5	0	0%	0%
VR Group	FIN	INT	1,383	91	85	1,593	6%	7%	6%	7%	1.07	0.2	104	38%	344	0.37	0.13	-	9	3%	0.0	1.2	1.6	77.7	0	0%	0%
SNCF	FRA	INT	23,691	809	1,680	47,849	7%	3%	2%	10%	1.08	1.8	109	40%	-	-	-	-	29,266	74%	3.6	0.7	0.7	1.9	5,671	26%	24%
TRAINOSE SA	GRE	INT	116	-155	-157	124	-135%	-133%	-125%	395%	0.43	0.6	143	41%	142	0.06	0.14		0	0%	0.0	0.8	0.8	-3,791.2	0	0%	0%
Gysev Hungary	HUN	INT	0	0	0	0	-	-	-	-	-	-	-	-	-	-	-	-	0	-	-	-	-	-	0	-	-
Iarnród Éireann	IRE	INT	452	13	18	1,531	4%	3%	1%	30%	1.04	3.4	0	62%	-	0.09	0.08	-	1,431	-	32.4	0.0	0.6	3.5	203	47%	45%
LDZ	LAT	INT	395	48	52	416	13%	12%	12%	24%	1.15	0.6	25	87%	-	-	-	0.18	0	0%	0.0	0.5	1.0	13.8	29	9%	7%
LG Lithuania	LIT	INT	410	48	46	960	11%	12%	5%	8%	1.13	1.0	-	-	-	-	-	-	259	74%	0.4	0.8	1.3	-	190	52%	47%
PKP Holding	POL	INT	255	63	12	0	5%	25%	-	-	1.05	5.2	-	-	-	-	-	-	-	-	-	-	-	0.6	12	5%	5%
PKP LHS	POL	INT	71	42	11	0	16%	59%	-	-	1.19	0.0	-	-	-	-	-	-	-	-	-	-	-	0.0	0	0%	0%
PKP SKM	POL	INT	26	0	0	0	1%	2%	-	-	1.01	0.0	-	-	-	-	-	-	-	-	-	-	-	0.0	7	28%	28%
CP	POR	INT	325	-207	-106	1,298	-33%	-64%	-16%	11%	0.75	6.6	102	31%	119	0.09	0.13	-	2,733	95%	-1.5	0.0	0.2	-1.1	41	10%	13%
SZ	SLO	INT	352	23	21	937	6%	7%	3%	38%	1.06	2.6	42	57%	408	0.43	0.09	-	150	17%	2.4	0.0	0.2	-	41	12%	12%
Euskotren	SPA	INT	54	-9	-9	84	-16%	-17%	-11%	-18%	0.86	0.3	78	38%	-	-	-	-	12	65%	0.2	0.4	0.9	-7.3	32	52%	60%
FEVE	SPA	INT	164	-44	-36	746	-22%	-27%	-6%	-10%	1.00	1.9	83	45%	-	-	-	-	223	72%	0.5	0.2	0.8	-4.8	118	72%	72%
FGC (F+P)	SPA	INT	129	-39	-38	713	-29%	-30%	-5%	-7%	0.77	0.7	-	41%	217	0.17	5.19	-	99	84%	0.2	1.5	1.6	-19.4	48	29%	37%
FGC (I+F+P)	SPA	INT	129	-39	-38	713	-29%	-30%	-5%	-7%	0.77	0.7	-	41%	-	0.09	-	-	99	84%	0.2	1.5	1.6	-19.4	48	29%	37%
RENFE	SPA	INT	2,155	-239	137	6,311	6%	-11%	-4%	-11%	1.07	2.1	141	36%	-	0.06	0.03	-	4,105	98%	2.0	0.1	0.9	0.4	605	30%	28%
SBB (Integrated)	SWI	INT	43	5	5	96	12%	13%	6%	15%	1.14	1.5	-	-	3	0.00	0.00	0.01	7	12%	0.2	0.9	1.0	6.2	0	0%	0%
Channel Tunnel Group	UK	INT	403	-18	141	3,656	35%	-4%	0%	26%	1.54	14.2	-	-	-	-	-	-	3,698	-	-53.8	0.0	0.2	0.7	-	-	-

1.7 Conclusion on implementation of accounting separation directives

1.7.1 Our review of the separated accounts of rail businesses sought to address, inter alia, two key issues:

- Is there evidence of cross-subsidisation between infrastructure management, freight and passenger activities of railway businesses?
- Are firms complying with the regulatory restrictions on the use of public funding (in particular the funding of Public Service Obligation contracts)?

Cross subsidies

1.7.2 In our review, the detection of cross–subsidisation between rail activities was made particularly difficult for two reasons:

- Firstly, the lack of transparency and detail in the separated accounts meant that in most cases it was not possible to understand the basis on which separated accounts had been prepared..
- Secondly, the statutory accounts in which nearly all railway businesses have sought to implement their accounting separation obligations, do not apply the economic cost or profitability concepts required in a competition analysis.

1.7.3 For example, in an analysis of cross-subsidies, it will normally be necessary to consider the incremental or marginal and stand-alone costs of a particular activity. These cost concepts are not normally used in the preparation of statutory accounts and as a result the costs and profits shown are not necessarily relevant for an assessment of cross-subsidies.

Reporting of public funding in statutory accounts

1.7.4 Our review of public funding of railways found that, in general, insufficient information was provided in order to properly assess whether the legislation relating to public funding was complied with.

1.7.5 For example, a proper analysis of the treatment of public funds requires a detailed review of the businesses cashflows – i.e. how did the cash received in public funding actually get spent?

1.7.6 Statutory accounts do not typically provide details on the use of individual sources of funds. The accounts may provide some breakdown of total funds received by the company and a reconciliation of how the business used those funds, but the accounts do not match funds to particular activities in the way that is needed to ensure compliance with the directives.

1.7.7 Further, the current accounting separation requirements only require separate profit and loss accounts and balance sheets to be prepared. There is currently no requirement for accounting separation to be applied to the cashflows of the business.

1.8 Recommendations

1.8.1 Our recommendations for improvements in the accounting separation regime are as follows.

1.8.2 We recommend that a system of stand alone Regulatory Accounts should be adopted in the EU rail sector and that these should:

- include separate profit and loss accounts and balance sheets for freight and passenger rail service operators and rail infrastructure management activities;

- separate accounts should also be prepared for different rail operations and infrastructure services where appropriate for regulatory purposes (e.g. long-distance services, inter-city services, etc); and

- be prepared to a sufficient level of detail as determined by the regulator to enable them to perform their role.

Enforcement

1.8.3 The rail regulator should be provided with the requirement and authority to monitor and enforce the accounting separation regime.

1.8.4 Regulatory Accounts should be accompanied by documentation which explains the methodology applied in producing the accounts.

1.8.5 It should indicate the methodology used to allocate joint and common costs between different activities.

Accounting Methodology

1.8.6 Regulatory Accounts should be accompanied by documentation which explains the methodology applied in producing the accounts.

1.8.7 It should indicate the methodology used to allocate joint and common costs between different activities.

1.8.8 Separated Accounts should set out different cost categories at an appropriate level of disaggregation.

1.8.9 It may be necessary to prepare costs on a current cost basis using a "modern equivalent asset" approach. This involves determining the current cost of an asset if it was purchased now or where relevant if the modern equivalent version of that asset was purchased. In this case the basis of revaluation should be transparent.

Non-discrimination

1.8.10 The accounts should provide sufficient information to indicate the individual track access and other infrastructure charges paid for access to the rail infrastructure by both third-party rail operators and rail operators that form part of the infrastructure manager's group. In the latter case, these are termed "transfer charges". The basis for determining the transfer charges should be clearly stated.

1.8.11 This is likely to require the publication of data on volumes of individual freight, passenger and infrastructure services, prices for individual services and total revenues for individual services paid by internal and external customers.

Detection of Anticompetitive Pricing

1.8.12 The accounts should state costs and revenues for individual freight, passenger and infrastructure services (or groups of services) using the relevant cost methodology necessary to identify potentially anticompetitive pricing (cross-subsidies, predatory pricing, excessive pricing, etc.).

1.8.13 The return on capital employed (i.e. net profit relative to the total capital employed in the business) should be calculated for each individual freight, passenger and infrastructure service. It may be appropriate to include a 'cost of capital' (which reflects the combined cost to the company of serving their debt and equity holders) in the separated accounts to serve as a competitive benchmark against which to measure the return on capital employed. In this case, the basis for calculating the cost of capital should be clearly explained.

1.8.14 It may be appropriate to calculate relevant marginal or incremental costs. This will depend on the relevant definition of costs (for example for track access charges) adopted by the national rail regulator. If this is the case the basis for calculating marginal costs should be transparent.

Level of disaggregation in accounting separation

1.8.15 If the national legislation requires prices of individual services, or groups of services, to be priced in a particular manner (for example track access charges or public service contracts), then the accounts should disaggregate the services to show revenues and costs for those particular services or groups of services to enable at least a first order test of compliance with the particular pricing regime attached to those services.

Use of Public Funds

1.8.16 The accounts should include details of individual sources and uses of public funds, including public service obligations and direct lump-sum transfers from the budget into the railway undertaking in a transparent and detailed manner. This could be achieved by providing a separate cashflow analysis which focuses on the source of inflows and the various outflows of cash.

Consolidated Group Structures

1.8.17 Where the regulated railway undertaking is part of a group structure, Regulatory Accounts should be prepared for the group as a whole, as well as the individual entities. In addition, full details of inter-company payments should be included in the Regulatory Accounts in order to ensure that public funds have been appropriately used.

Publication

1.8.18 The Regulatory Accounts should be published within a set period of the financial year end.

Audit

1.8.19 The Regulatory Accounts should be audited by an independent auditor with some duty of care to the Regulator – i.e. the Regulator should be involved in determining the requirements of the regulatory audit.

2 AUSTRIA

2.1 Industry overview

2.1.1 The railways in Austria are operated and managed by the Austrian Federal Railways company Österreichische Bundesbahnen (ÖBB). Some regional lines are operated and managed by other companies.

2.1.2 The ÖBB Company was transitioned to a holding structure in March 2004, and the new structure was launched on 1 January 2005. This was undertaken on the basis of the Bundesbahnstrukturgesetz 2003 (Federal Railways Structure Act). The company's 2005 Annual Report states that, while implementing these structural reforms, the management, employees and supervisory boards of the ÖBB Group focused on the following fundamental objectives fixed by the Republic of Austria:

- Creation of transparent, competitive and modern companies, free from any kind of discrimination, realised through the corporate separation of infrastructure and transport operations, as well as dividing the latter area into independent industry companies;
- Alignment of the transport operations companies with more customer orientation by improving services and mobility offered;
- Reduction of the compensation for services rendered received from the Federal government by promoting growth in the transport operations sector aimed at sustainable sales revenues, and by streamlining and reducing costs;
- Guarantee commitments by the Federal government for new investments in infrastructure instead of automatically covering any losses incurred.

2.1.3 On 1 January 2005, employees, assets, debts and duties were transferred to the operative companies. A total of 16 business divisions were demerged. On 16 March 2005, the old ÖBB was transformed into ÖBB-Infrastruktur Bau AG. The reform was completed on 20 April 2005 with the merger of HL-AG (Eisenbahn Hochleistungsstrecken AG) and the financing division of Schieneninfrastrukturfinanzierungs-Gesellschaft mbH (SCHIG) with ÖBB-Infrastruktur Bau AG.

2.1.4 The new structure of the ÖBB Group now includes ÖBB-Holding AG, the strategic holding company, four operative stock (AG) companies and further operative limited liability (GmbH) companies, each of which is responsible for its own business results. The four operative stock companies are:

- ÖBB-Personenverkehr AG supplying passenger transport services;
- Rail Cargo Austria AG supplying freight transport services;
- ÖBB-Infrastruktur Betrieb AG supplying infrastructure management services; and
- ÖBB-Infrastruktur Bau AG supplying maintenance and development of the infrastructure.

2.1.5 National railway undertakings have open access to purely commercial passenger transport, but only OBB offers such services at the moment.8 Regional passenger transport is provided under public service contracts,

[8] See IBM Global Business Services, *Rail Liberalisation Index*, 2007.

which are awarded on a discretionary basis by Austria's transport associations. The associations are almost exclusively state-owned and ÖBB has about 90% share of the passenger transport segment. This share is higher when inner city transport is taken into account.

2.1.6 Austria has seen good growth in the rail freight sector over the last 10-20 years and this is forecasted to continue into the future. The modal share of rail freight transport increased from 27.2 per cent in 1995 to 28.8 per cent in 2004. However, the modal share of rail passenger transport decreased in the same period from 10 to 7.8 per cent. The high share of freight that travels by rail is due to the need to cross the Alps.

2.1.7 Competition in rail passenger transport in Austria is non-existent at present. Regional railway undertakings operating alongside OBB are all almost exclusively state-owned, e.g., the City Airport Train which is 49 per cent owned by OBB and 51 per cent owned by Vienna Airport. For the most part, external railway undertakings provide their regional passenger transport services on their own networks.

2.1.8 In rail freight transport, there are another ten railway undertakings operating alongside the incumbent Rail Cargo Austria (RCA). RCA's market share slipped from 94.1 per cent in 2005 to 92.3 per cent in 2006, and experienced only 6 per cent growth in the same period. This, combined with the fact that the other operators increased the size of their business by 40 per cent, has been taken as a sign that competition in rail freight transport is working in Austria.

2.2 List of Licensed Railway Undertakings[9]

Passenger	Freight	Infrastructure Manager
ÖBB* GKB (PSO) Wiener Lokalbahn* Salzbugder Lokalbahn WLB RTS	ÖBB – Rail Cargo Austria* GKB (LTE) (international) Wiener Lokalbahn*	ÖBB-Infrastruktur Betrieb AG* GKB Wiener Lokalbahn*

* - Countries with turnover greater than €50m which will be studied in depth

2.3 Industry Regulator & Government Departments

2.3.1 Government departments:

- Ministry of Transport
  - BMVIT Bundesministerium fuer Verkehr, Innovation und Technologie[10]
- Ministry of Finance
  - BMF Bundesministerium fuer Finanzen[11]

[9] European Railway Agency, www.era.europa.eu
[10] See http://www.bmvit.gv.at/

2.3.2 Industry regulator

- Schienen-Control GmbH[12]

2.4 Legal framework

2.4.1 Austrian Railways Act, 2004, Federal Railways Structure Act 2003.

Table 12 EC Directive 2001/EC/12 compliance

Article	Issue	Transposition	Austrian law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	If integrated railway companies are manager of infrastructure services, they must report separately for infrastructure and other activities. Separate reporting includes publishing separate profit and loss statements and balance sheets. A transfer of funds from infrastructure to other activities is not allowed.[13]
6.1(a)	Requirement to publish accounts	Yes	Separate reporting includes publishing separate profit and loss statements and balance sheets[14]
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	A transfer of funds from infrastructure to other activities is not allowed[15]
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	No legislation identified
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	Group structure enabled through legislation - Federal Railways Structure Act 2003 (Bundesbahnstrukturgesetz 2003).
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport	No	Railway companies that have other operations that are solely i) Urban, ii) suburban or iii) regional operations, must report profit and loss and balance sheet accounts for rail services for freight transport.[16]

11 See https://www.bmf.gv.at/
12 See http://www.scg.gv.at/
13 Section 55 (1) (1) Austrian Railways Act
14 Section 55 (1) (1) Austrian Railways Act
15 Section 55 (1) (1) Austrian Railways Act
16 Section 55 (1) (3) Austrian Railways Act

	services.'		
9.4(a)	Requirement to publish accounts	No	Requirement is only to 'report' separate accounts[17]
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	No legislation identified
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	No	No legislation identified

2.4.2 Not all points of the directive have been transposed into the domestic legislation. Specifically:

- Article 6.1; We did not identify any legislation relating to the requirement to keep accounts in such a way that the prohibition on the transfer of public funds is reflected.
- Article 9.4; We did not identify any legislation relating to the requirement to prepare or publish separate accounts for freight companies.
- Article 9.4; We did not identify any legislation relating to the separation of passenger PSO funding in the company accounts or the prohibition on their transfer.

2.5 Sources of Information

2.5.1 ÖBB

- Annual accounts 2004-2007[18]

2.5.2 GKB

- Annual accounts 2004-2007[19]

2.5.3 Salzburger Lokalbahn

- Annual accounts 2007[20]

2.5.4 Wiener Lokalbahn

- Annual accounts 2004 - 2007

2.5.5 Government departments:

- Ministry of Finance[21]

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[17] Section 55 (1) (1) Austrian Railways Act

[18] Sourced from the ÖBB Holding Company. ÖBB was responsive in general terms but did not respond to our questionnaire. The contact was Dr Roland Graffius, Strategy, International Relations and Public Affairs.

[19] The company, having initially agreed to cooperate (in January 2009), withdrew participation (in March) quoting staff shortages. The contact was Frau Magister Kerstin Hernler.

[20] We tried to make contact with this company but no response was received. Contact was Karin Koenig.

[21] We sought information from the Finance ministry but no information was provided. Initially cooperation was agreed by Magister Bernhard Bauer in email dated 20 January 2009. Later via

- Ministry of Transport[22]

2.5.6 Regulator:

- Schienen Control GmbH[23]

2.6 ÖBB Rail

2.6.1 ÖBB is Austria's largest transport company. It is a state-owned and integrated company, employing about 43,000. ÖBB-Holding AG is 100 per cent owned by the state and the Board is answerable to the Austrian Ministry of Transport.

2.6.2 The structure of the ÖBB Group includes ÖBB-Holding AG, the strategic holding company, four operative stock (AG) companies and further operative limited liability (GmbH) companies, each of which is responsible for its own business results. The four operative stock companies are:

- ÖBB-Personenverkehr AG supplying passenger transport services;
- Rail Cargo Austria AG supplying freight transport services;
- ÖBB-Infrastruktur Betrieb AG – responsible for technical and operational management of 5,700 km of the railway network and for the maintenance, inspection and repair of the entire railway infrastructure (11,000 km); and
- ÖBB-Infrastruktur Bau AG - owner of the domestic railway infrastructure and responsible for planning, building, financing and asset management. Also responsible for power generation and power trade as well as telecommunications provision to the entire ÖBB Group.

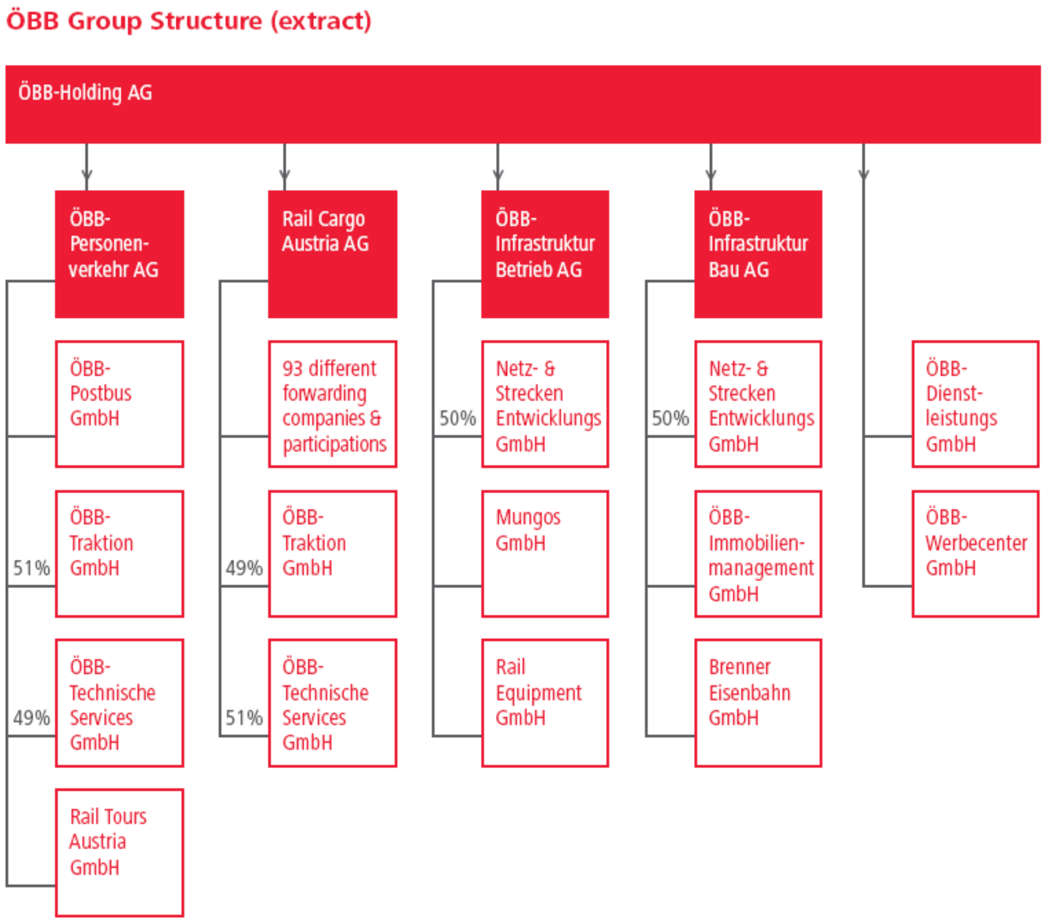
2.6.3 ÖBB-Immobilienmanagement GmbH (a subsidiary of ÖBB Infrastruktur Bau AG) manages the administration, development and use of properties belonging to the ÖBB Group. ÖBB-Dienstleistungs GmbH was founded with the aim of servicing the personnel function, as well as offering services across the Group, such as IT for the ÖBB Group companies.

Telephone declared that information would not be provided and that Ministry was in contact with investigated firms to encourage them not to participate.

[22] We sought information from the Transport ministry but no response was received. Contact was Regina Roithner.

[23] We sought information from the regulatory, but no response was received. Contact was Herr T. Vanicec.

Figure 1: ÖBB Holding Structure



2.6.4 Our review of ÖBB's annual accounts is presented below.

Table 13 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	"On the basis of our audit, there is no reason to raise any objection of whatsoever kind. In our opinion, the consolidated financial statements of [OBB, Vienna] comply with all relevant statutory provisions and give as true and fair as possible a view of the group's assets and financial situation as of December 31, 2007, as well as of the earnings position and the cash flow for the 2007 business year, in accordance with the International Financial Reporting Standards (IFRS) applicable within the EU." Confida Auditing Company, Vienna, May 2008.
Transparency	Good	Comprehensive reporting at the Group, stock company (AG) and limited liability company (GmbH) levels. Separate income statements and balance sheets are produced for each of the AG-level sub-groups.
Visibility of transfers	Some	Separate cash flow statements are not produced for each of the AG-level sub-groups. These would be necessary to

Issue	Quality	Comment
from/to other rail businesses		identify flows of cash between the different rail businesses (operational subsidiaries) under ÖBB's control.
Visibility of intra-group transfers	Good	ÖBB's annual accounts include a table showing the most relevant intra-group services rendered by one sub-group to another. It includes infrastructure-related charges for the use of train paths, local infrastructure and passenger railway stations, payments for energy, traction and technical services. (See pp. 159-160 of 2007 Annual Report.) However, a full detailed cash flow statement, which would be necessary to identify all flows of cash between different rail businesses, is not provided. The annual report also provides reconciliation between the consolidated accounts and the sum of the individual OBB subgroups.

2.6.5 In Table 14, we assess ÖBB's compliance with the requirements of Directive 2001/12/EC.

Table 14: ÖBB's compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Separate accounting for each of the sub-groups directly beneath ÖBB Holding AG in the illustration above. ÖBB has two infrastructure sub-groups, which are treated distinctly from passenger and freight services. Each of the sub-groups consists of a number of limited liability companies (GmbH).
6.1(a)	Requirement to publish separated accounts	Yes	Accounts are published.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	Where relevant, public funding is identified separately for each of the ÖBB sub-groups. We found no evidence to suggest that these are being transferred between the infrastructure and transport service divisions of the company. There is no evidence suggesting that public funds are transferred directly to the holding company. The holding company's P&L shows that it received €22.5m in income from its subsidiaries' in 2007; however, there is insufficient information to conclude whether this consisted

Article	Issue	Compliance	Comment
			of public funding.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by OBB. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	ÖBB consists of two legally separate infrastructure divisions (one for infrastructure management and the other for infrastructure maintenance and development), a legally separate passenger transport company and a legally separate freight transport company.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	Separate P&L and balance sheet for Rail Cargo Austria AG are presented in ÖBB's annual reports.
9.4(a)	Requirement to publish separated accounts	Yes	Accounts are published
9.4	Funds for PSO transport activities shown separately in accounts	No	Details in aggregate only.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	No evidence of PSO funds for passenger transport being transferred to any of ÖBB's other companies.

2.6.6 In Table 15, we have presented the public funding that was made available, by the Federal Government of Austria, to each of the four ÖBB subgroups.

Table 15: Federal public funding for the ÖBB subgroups

Company	Purpose	2006 (€ m)	2007 (€ m)
ÖBB-Personenverkehr AG	Compensation from Federal Govt for rendering public-benefit services	465.80	468.00
Rail Cargo Austria AG	Compensation from Federal Govt for rendering public-benefit services	109.10	109.50
ÖBB-Infrastruktur Betrieb AG	Operation, maintenance, inspection and repair of the railway infrastructure	1,006.00	1,006.00
ÖBB-Infrastruktur Bau AG	Section 43 BBG	-	65.00

2.6.7 In the company accounts, the flow of goods and services (and the associated payments) between subsidiaries is shown in some detail. This is set out below in Figure 2.

Figure 2 Intra group transfers

Intra-group flow of goods and services

Services rendered by	IFRS in million EUR	Services received by	Services in million EUR
ÖBB-Traktion GmbH	736	ÖBB-Personenverkehr AG, Rail Cargo Austria AG	Traction and traction power
ÖBB-Infrastruktur Bau AG	651	ÖBB-Infrastruktur Betrieb AG	463 rental of infrastructure, 39 rentals, 16 power, 82 maintenance and 51 other sales
ÖBB-Infrastruktur Betrieb AG	409	ÖBB-Personenverkehr AG, Rail Cargo Austria AG, ÖBB-Traktion GmbH, ÖBB-Technische Services-GmbH	400 infrastructure charges, 4 maintenance, 3 other sales, 2 other operating income
Rail Cargo Austria	377	Speditionen und ÖKOMBI GmbH	Sales from freight transport
ÖBB-Infrastruktur Bau AG	303	ÖBB-Personenverkehr AG, Rail Cargo Austria AG, ÖBB-Traktion GmbH, ÖBB-Technische Services-GmbH	215 power, 44 rentals, 15 maintenance, 20 other sales, 9 other operating income
ÖBB-Technische Services-GmbH	233	ÖBB-Personenverkehr AG, Rail Cargo Austria AG	Technical services
Speditionen	162	Speditionen	Offsetting within forwarding business
ÖBB-Dienstleistungs GmbH	123	Konzerngesellschaften	Services regarding human resources and IT
ÖBB-Technische Services-GmbH	81	ÖBB-Traktion GmbH	Technical services
Rail Eqipment GmbH und Rail Equipment GmbH & Co KG	55	ÖBB-Infrastruktur Bau AG, ÖBB-Infrastruktur Betrieb AG,	Management of vehicle fleet
ÖBB-Infrastruktur Betrieb AG	46	ÖBB-Infrastruktur Bau AG	Maintenance, other sales, and other operating income
ÖBB-Immobilienmanagement GmbH	37	ÖBB-Infrastruktur Bau AG	Facility management
ÖBB-Holding AG	36	Konzerngesellschaften	Holding company activities and internal SAP activities
Industriewaggon GmbH	33	Rail Cargo Austria AG, ÖBB-Traktion GmbH	Rental of rolling stock
ÖBB-Technische Services-GmbH	32	Konzerngesellschaften	Technical services
Mungos Sicher & Sauber GmbH & Co KG	31	Konzerngesellschaften	Cleaning and security services
ÖBB-Personenverkehr AG	30	Konzerngesellschaften	Special rates and other operating income
ÖBB-Infrastruktur Bau AG	30	Konzerngesellschaften	Rentals, other sales
Speditionen	30	ÖBB-Infrastruktur Bau AG	Transport services
Speditionen	28	Rail Cargo Austria AG	Sales of forwarding business with Rail Cargo Austria AG
ÖBB-Traktion GmbH	15	ÖBB-Infrastruktur Betrieb AG	Traction services
CI & M Werbeagentur GmbH	14	Konzerngesellschaften	Marketing campaigns
ÖBB-Traktion GmbH	10	Konzerngesellschaften	Traction services
Österreichische Postbus AG	6	ÖBB-Postbus GmbH	Rentals, other sales
Total intra-group services	**3,508**		
less own work capitalized contained therein	-118		
Total consolidation	**3,390**		
thereof in subgroup ÖBB-Personenverkehr	399		
thereof in subgroup Rail Cargo Austria	572		
thereof in subgroup ÖBB-Infrastruktur Betrieb	63		
thereof in subgroup ÖBB-Infrastruktur Bau	31		
thereof at group level	2,325		

2.6.8 In what follows, we provide data that will serve to illustrate the operational and financial performance of the ÖBB Group.

Table 16: Operating and financial data for the ÖBB Group 2007

Company Type	Consolidated	Holding Co.	Passenger transport	Freight transport	Infrastructure management	Infrastructure maintenance & development
Summary financial data	**ÖBB Group**	**ÖBB AG**	**ÖBB-Personenverkehr AG**	**Rail Cargo Austria AG**	**ÖBB-Infrastruktur Betrieb AG**	**ÖBB-Infrastruktur Bau AG**
Metric	**Million Euros**					
Total revenue	5,521.35	37	1,996	2,417	1,545	1,680
Revenue from Passenger transport			1,996			
Revenues from Freight transport				2,417		
Revenue from infrastructure charges					417.80	463.00
Total subsidisation	1,648.50	-	468	110	1,006	65
Wages, Salaries, Social Security Payments	(2,136.78)	-13	-721	-378	-627	-333
Operating costs	(2,870.93)	-26	-1,240	-2,014	-908	-910
Operating profit	513.64	-2	35	25	10	437
Financial expenses	(469.24)	-55	-56	-11	16	-373
P&L on ordinary activities before tax	44.40	-58	-22	13	26	64
Total fixed assets	13,555	1	2,685	507	150	10,261
Long term receivables	473	3,241	1,319	522	228	1,118
Total current assets	1,422	187	578	928	192	567
Trade debtors	563	0	189	376	85	279
Other debtors	394	107	86	48	39	119
Current asset investments	185	80	142	89	46	142
Cash at bank and in hand	150	0	150	315	16	12
Creditors: <1yr (Current Liabilities)	1,714	3	2,568	604	181	1,359
Creditors: >1yr	10,377	196	560	380	48	9,507
Provisions for liabilities and charges	417	33	103	91	68	164
Equity	2,941	3,198	1,351	880	273	915
	No. / Km					
Average no. employees	43,390		14,072	8,121	12,681	6,709
Passenger-kilometres (m)			12,326,000.00			
Tonne-kilometres (m)				19,431,000.00		
Managed kilometres					5,702.00	

Table 17: Financial ratios for the ÖBB Group

Financial indicators	Consolidated	Holding Co.	Passenger transport	Freight transport	Infrastructure management	Infrastructure maintenance & development
Metric	**ÖBB Group**	**ÖBB AG**	**ÖBB-Personenverkehr AG**	**Rail Cargo Austria AG**	**ÖBB-Infrastruktur Betrieb AG**	**ÖBB-Infrastruktur Bau AG**
Performance						
Revenues (€m)	5,521	37	1,996	2,417	1,545	1,680
Net profit (€m)	44	-58	-22	13	26	64
Operating profit (€m)	513.64	-2.38	34.78	24.67	10.47	436.75
Total assets (€m)	15449.19	3429.92	4581.84	1956.18	570.55	11946.07
Profitability						
Operating profit margin	9%	-6%	2%	1%	1%	26%
Net margin	1%	-156%	-1%	1%	2%	4%
Return on assets	0%	-2%	0%	1%	5%	1%
Return on equity	0.02	-0.02	-0.02	0.02	0.10	0.07
Viability ratio	1.10	0.94	1.02	1.01	1.01	1.35
Efficiency						
Liabilities / operating costs	250%	590%	165%	45%	19%	888%
Cost per staff member (€ m)	115		139	295	121	185
Staff costs as a proportion of operating costs	0.43	0.33	0.37	0.16	0.41	0.27
Unit operating costs (€ '000)						
Total Revenue per Passenger Km (€)			0.16			
Total Revenue per Freight Km (€)				0.12		
Total revenue per managed km (€m)					0.27	
Indebtedness						
Total debt of the company (€m)	10,574	0	2,642	545	76	10,011
Debt / Total liabilities	85%	0%	82%	51%	25%	91%
Debt: Equity ratio	3.6	0.0	2.0	0.6	0.3	10.9
Quick ratio	0.8	56.2	0.2	1.4	1.0	0.4
Current ratio	0.8	56.1	0.2	1.5	1.1	0.4
Debt service coverage ratio	1.1	-0.1	0.3	0.8	1.2	0.9
Public funding						
Total public income (€m)	1648.5	-	468	109.5	1006	65
Public funding / costs	33%	-	24%	5%	66%	5%
Public funding / revenue	30%	-	23%	5%	65%	4%

2.7 Wiener Lokalbahn AG

2.7.1 An integrated regional government owned company, which provides PSO passenger services, commercial freight services and infrastructure operation and management.

2.7.2 Our review of Wiener Lokalbahn's annual accounts is presented in Table 18 below.

Table 18 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the accounts comply with statutory requirements and give a true and fair picture of the assets and financial position of the company as at 31.12.2007 and the earnings of the company for the fiscal year from 01.01.2007 to 31.12.2007 in compliance with generally accepted Austrian accounting principles. The report is consistent with the financial statements.' BDO Auxilia Treuhand GmbH, April 2008
Transparency	Some	Accounts show a P&L and balance sheet the parent company. Only revenue breakdowns are provided for the individual operational segments. Separate accounts are not presented for the company's operating subsidiaries.
Visibility of transfers from/to other rail businesses	Poor	Neither is separate cash flow statements produced for the operational segments. These would be necessary to identify flows of cash between the different rail businesses (operational subsidiaries) under Wiener Lokalbahn's control.
Visibility of intra-group transfers	Poor	Accounts are only produced for the parent company with no separate breakdowns for the individual segments of the Group or for the operational subsidiary companies.

2.7.3 In Table 19, we assess Wiener Lokalbahn's compliance with the requirements of Directive 2001/12/EC.

Table 19: Wiener Lokalbahn's compliance with Directive 2001/12/EC

Article	Issue	Compliance	Austrian law
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	No	Only P&L and balance sheet for parent company. Only revenue breakdowns are provided for the operational segments of the business.
6.1(a)	Requirement to publish accounts	No	See above.
6.1	Prohibition on the transfer of public funds between infrastructure manager and	Yes	No way of telling whether the prohibition is adhered to, but there is no evidence to suggest

Article	Issue	Compliance	Austrian law
	rail operator		infringement.
6.1	Accounts kept in a way which reflects this prohibition	No	Only P&L, balance sheet and cashflow statements produced for the parent company.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	Beneath the parent company is an operating subsidiary for rail traffic. Our understanding is that this covers passenger and freight traffic, while the parent company's primary responsibility is ownership and management of the company's infrastructure.
9.4	Separate P&L and balance sheets kept and published for freight operations.	No	Passenger and freight operations appear to be merged in a single operating subsidiary.
9.4(a)	Requirement to publish separated accounts	No	See above.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	Only applicable in 2006 and 2007.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	Separate cash flow statements are not produced for the operational segments. These would be necessary to identify flows of cash between the different rail businesses (operational subsidiaries) under Wiener Lokalbahn's control. However, we have not encountered any evidence suggesting that the illegal transfer of funds is occurring.

2.7.4 In Table 20 below, we provide data that illustrates the operational and financial performance of Wiener Lokalbahn AG.

Table 20: Operational and financial performance data for Wiener Lokalbahn

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	43	50	60	37
Revenue from Passenger transport	23	23	14	15
Revenues from Freight transport	13	21	25	0
Revenue from infrastructure charges	0	0	3	3
Total subsidisation	0	0	26	30
Wages, Salaries, Social Security Payments	17	18	19	17
Operating costs	44	52	61	35
Operating profit	-1	-2	0	2
Financial expenses	0	0	1	3
P&L on ordinary activities before tax	-1	-2	0	0
Total fixed assets	29	29	28	39
Long term receivables	0	0	0	0
Total current assets	39	41	52	41
Trade debtors	3	4	9	6
Other debtors	4	14	25	23
Current asset investments	10	15	16	7
Cash at bank and in hand	20	5	0	3
Creditors: <1yr (Current Liabilities)	1	1	0	0
Creditors: >1yr	34	31	36	62
Provisions for liabilities and charges	26	30	35	9
Equity	7	8	9	10
	No. / Km			
Average no. employees	371	378	369	325
Passenger-kilometres (m)	2	2	2	2
Tonne-kilometres (m)	39	51	0	0
Managed kilometres	0	0	0	0

2.7.5 In Table 21 below, we show the corresponding set of financial ratios.

Table 21: Financial ratios for Wiener Lokalbahn

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	43	50	60	37
Net profit (€m)	-1	-2	0	0
Operating profit (€m)	-1	-2	0	2
Total assets (€m)	69	70	81	80
Profitability				
Operating profit margin	-3%	-4%	0%	6%
Net margin	-1%	-4%	0%	1%
Return on assets	-1%	-3%	0%	0%
Return on equity	-7%	-23%	1%	3%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	1.4	1.2	1.2	2.0
Cost per staff member (€ '000)	119	138	165	108
Staff costs as a proportion of operating costs	39%	35%	31%	47%
Unit operating costs (€ '000)	25,055	29,691	34,999	19,872
Total Revenue per Passenger Km (€)	24.33	28.45	34.85	21.06
Total Revenue per Freight Km (€)	1.10	0.98	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	24	25	27	32
Debt / Total liabilities	39%	40%	38%	45%
Debt: Equity ratio	3.3	3.0	3.0	3.3
Quick ratio	39.5	44.0	-	-
Current ratio	42.0	46.8	-	-
Debt service coverage ratio	-4.6	-5.0	-0.4	0.8
Public funding				
Total public income (€m)	0	0	26	30
Public funding / costs	0%	0%	43%	85%
Public funding / revenue	0%	0%	43%	80%

2.7.6 Conclusions

- Not all requirements of the EC directives are reflected in the national legislation, particularly with regards to the separation of PSO funding in the accounts, the separation of freight companies and the way in which the accounts are kept.
- The point relating to separation of freight companies is redundant as, in practice, the incumbent separates the P&L and balance sheet for the freight divisions.
- There is no evidence to suggest that public funds are being transferred between activities for any of the Austrian companies. The information currently published, however, is not detailed enough for an in depth and conclusive review.

3 BELGIUM

3.1 Industry overview

3.1.1 In 2005, the Belgian state owned incumbent railway company, Societe Nationale des Chemins de fer (SNCB[24]) Group, was legally separated into two subsidiary companies under a holding company called SNCB Holding. The two companies, Infrabel SA and SNCB SA became responsible for infrastructure management and transport services respectively. In addition to Infrabel SA and SNCB SA, ownership of the infrastructure assets and associated debt were transferred to the Railway Infrastructure Fund (FIF), a government owned entity. From 2005 – 2007 Infrabel SA paid €300m to the FIF for the right to manage and operate the infrastructure.[25]

3.1.2 In July 2008 it was decided that the debt allocated to the fund would be formally adopted by the State. On the 30th June 2008, this was estimated at €4,485m. Ownership of the fund's assets (with a value of around €6,412m) were to be transferred to Infrabel SA..[26] This came into effect on the 28th September 2008 as a result of legislation stipulating that 'Art. 1 – The assets of the railway infrastructure fund are transferred automatically to the public company Infrabel' and 'Art. 8 – Debts that have been transferred to the Fund…are transferred automatically to the state.'[27]

3.1.3 SNCB SA is the only passenger operator in Belgium and B-Cargo (the company's freight operating division) competes in the rail freight market. B-Cargo has a market share of around 90%[28] in the open freight market and, despite full market liberalisation in 2007, has seen a 3.3% increase in sales.[29] SNCB SA is partially funded by a public service contract, which has been renewed for the period 2008 – 2012.

3.1.4 Infrabel had 5 clients operating on its network in 2007; SNCB SA, Dillen & Le Jeune Cargo, SNCF Fret Benelux, Rail4Chem and TransporT. Since then further licences have been granted but as can be seen from 3.2.

3.1.5 The industry is regulated by the rail department of the Ministry of Transport, Service de Regulation du Transport ferroviaire (DRS), which was formed under national legislation on 25th October 2004, but underwent some changes in 2006[30]

3.1.6 According to the Railway Gazette, on 16th September 2008 'the European Commission confirmed that it had received a complaint from the European Rail Freight Association about alleged cross subsidies within SNCB, obliging the Commission to open an enquiry. On the following day, SNCB issued a statement…refuting all the accusations.'[31] This was in relation to 'a sum of €426m forming part of a €510m government grant intended to provide SNCB's operating arm with an increase in capital, but the money … had been used for commercial purposes' as reported by La Libre Belgique in September 2008.

[24] Also known as Nationale Maatschappij der Belgische Spoorwegen (NMBS)
[25] Infrabel SA Annual Report 2007, p 101
[26] Press release from the Council of Ministers, 25th July 2008
[27] Royal Decree on the restructuring of the Railway Infrastructure, September 2008
[28] Correspondence with ERFA, March 2009
[29] SNCB SA Annual Report 2007, p 57
[30] IBM Global Services, Rail Liberalisation Index 2007, p 86
[31] 'SNCB in the Firing Line', www.railwaygazette.com, 29th October 2008

3.2 List of Licensed Railway Undertakings[32]

Passenger	Freight	Infrastructure Manager
SNCB SA*	SNCB SA* Dillen & Le Jeune Cargo (DLC) SC Intercontainer Interfrigo (ICF) CMI Traction TrainsporT AG SNCF Fret Benelux Rail4Chem	Infrabel SA*

*Companies with revenues greater than €50m which will be studied in depth.

3.3 Industry Regulator & Government Departments

- Regulatory Authorities
    - Service de Regulation du Transport ferroviaire – Dienst Regulering van het Spoovervoer (DRS)
- Ministry of Transport
    - Service public federal Mobilite et Transports [33]
- Ministry of Finance
    - Federale Overheidsdienst Financien[34]

3.3.1 In their mission statement, the Service de Regulation du Transport Ferroviaire says that it checks ‘the conformity of the relevant network with existing regulations.’[35] Their responsibility seems to lie predominantly with the monitoring of infrastructure charging and safety. As they do not appear to have a website, we have been unable to obtain any contact details for the organisation.

3.3.2 The Belgian Ministry of Transport has informed us that they ‘are not entrusted with monitoring the level of public funding of the rail infrastructure manager or the railway undertakings but is acting on behalf of the federal State in remunate [sic] Infrabel and NMBS for the fulfilment of their public service obligations.’[36]

3.3.3 Further, we have been informed by the Ministry of Transport that ‘In concluding the public service contracts with NMBS, the Ministry of Transport makes sure that no grants are paid for the benefit of the cargo division of NMBS; the same care is taken by identifying investment projects to [sic] being subsidised.’[37]

3.3.4 We have not been able to determine whether DRS or the Ministry of Transport are responsible for ensuring compliance of infrastructure managers or railway companies with national legislation transposing EU directives.

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[32] European Railway Agency, www.era.europa.eu
[33] www.mobilit.fgov.be
[34] http://treasury.fgov.be
[35] Presentation by Philippe Quarmeau, Le Regulateur Ferroviaire, 26th April 2007
[36] Correspondence with Service public federal Mobilite et Transports, January 2009
[37] Ibid

3.4 Legal Framework

3.4.1 Koninklijk besluit houdende sommige maatregelen voor de reorganisatie van de Nationale Maatschappij der Belgische Spoorwegen – Royal Decree on certain measures for the reorganisation of the Belgian railways, 18th October 2004[38]

Article 221

1) 'This article sets out Article 9(4) to directive 91/440/EEC of July 29, 1991 on the development of the Community's railways, introduced by the Directive 2001/12/EC of the European Parliament and the Council of 26th February 2001.

2) Without prejudice to article 27, paragraph 1, the new NMBS, in its internal accounts, will provide individual accounts for its activities relating to rail freight. The annex to the annual report of new NMBS will have a separate balance sheet and income statement for these activities.

3) The fees paid for activities relating to the provision of transport services for passengers in the context of missions of public services should be shown separately in the corresponding accounts and may not be transferred to activities relating to the provision of other services or to any other activity.'

3.4.2 Koninklijk besluit tot hervorming van de beheersstructuren van de spoorweginfrastructuur – Royal Decree to reform the management structures of the railway infrastructure, 14th June 2004[39]

Article 2

'The National Society of Belgian Railways (hereinafter referred to as the 'carriage') shall establish a public company called 'Infrabel', which will be the manager of the railway infrastructure, as defined in Article 3 of Directive 91/440/EEC, for the entire Belgian network.'

Table 22 EC Directive 2001/EC/12 transposition

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes (i)	'The National Society of Belgian Railways (hereinafter referred to as the 'carriage') shall establish a public company called 'Infrabel', which will be the manager of the railway infrastructure, as defined in Article 3 of Directive 91/440/EEC, for the entire Belgian network.'[40]
6.1(a)	Requirement to publish separated accounts	No	We did not identify any legislation requiring the publication of separated accounts.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	No (ii)	'The fees paid for activities relating to the provision of transport services for passengers in the context of missions of public services should be shown separately in the corresponding accounts and may not be transferred to activities relating to

[38] Correspondence with Service public federal Mobilite et Transports, also available on www.juridat.be
[39] Belgian legal database, www.juridat.be, accessed April 2009
[40] Royal Decree to reform the management structures of the railway infrastructure, 14th June 2004

			the provision of other services or to any other activity.'[41]
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No (iii)	'The fees paid for activities relating to the provision of transport services for passengers in the context of missions of public services should be shown separately in the corresponding accounts'[42]
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	'The National Society of Belgian Railways (hereinafter referred to as the 'carriage') shall establish a public company called 'Infrabel', which will be the manager of the railway infrastructure, as defined in Article 3 of Directive 91/440/EEC, for the entire Belgian network.'[43]
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	'the new SNCB, in its internal accounts, will provide individual accounts for its activities relating to rail freight. The annex to the annual report of new SNCB will have a separate balance sheet and income statement for these activities.'[44]
9.4(a)	Requirement to publish separate freight accounts	No	We did not identify any legislation requiring the publication of separated freight accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	'The fees paid for activities relating to the provision of transport services for passengers in the context of missions of public services should be shown separately in the corresponding accounts…'[45]
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	'…and may not be transferred to activities relating to the provision of other services or to any other activity.'[46]

3.4.3 Notes

(i) This is implemented through the separation of the infrastructure manager and the railway undertakings into legally separate companies, which legally requires the production of separate accounts.

(ii) There is no mention of public funding for infrastructure not being transferred to other areas. Further, the legislation seems only to refer to PSO, not to other

[41] Royal Decree on certain measures for the reorganisation of the Belgian railways, 18th October 2004
[42] Ibid
[43] Royal Decree to reform the management structures of the railway infrastructure, 14th June 2004
[44] Royal Decree on certain measures for the reorganisation of the Belgian railways, 18th October 2004
[45] Ibid
[46] Ibid

types of public funding as the term ‘fees’ is ambiguous and, in our opinion, is not necessarily representative of all public funds.

(iii) The legislation stipulates that funding for public service remits must be shown separately in the accounts. It does not mention funding for infrastructure being shown separately.

3.4.4 In our view, Belgium has not fully implemented the EU directives on accounting separation. In particular;

- Article 6.1 – the domestic legislation does not reflect the prohibition on the transfer of all public funds. It refers only to ‘The fees paid for activities relating to the provision of transport services for passengers in the context of missions of public services.’
- Article 6.1 – there is no mention in the domestic legislation of showing all public funding separately in the accounts in order to reflect the prohibition on its transfer. It refers only to income from passenger transport PSO.

3.4.5 Railway companies, like any other, are required to publish their accounts. The structure of the state railway companies is such that separate accounts must be published for the separated infrastructure and transport companies and, within the transport company’s accounts, a separate P&L and balance sheet for freight divisions must be shown. Despite this, there is no specific requirement for the rail companies to publish the separated accounts.

3.4.6 We understand that it is responsibility of the Belgian Court of Audit to monitor compliance with accounting separation requirements.

3.5 Sources of Information

3.5.1 Belgian laws and regulations:

- Koninklijk besluit houdende sommige maatregelen voor de reorganisatie van de Nationale Maatschappij der Belgische Spoorwegen – Royal Decree on certain measures for the reorganisation of the Belgian railways, 2004[47]
- Koninklijk besluit tot hervorming van de beheersstructuren van de spoorweginfrastructuur – Royal Decree to reform the management structures of the railway infrastructure, 14th June 2004[48]
- Koninklijk besluit betreffende de herstructurering van het Fonds voor spoorweginfrastructuur – Royal Decree on the restructuring of the railway infrastructure, 28th September 2008[49]

3.5.2 Annual accounts:

- Infrabel SA Annual Reports, (2005 – 2007)
- SNCB SA Annual Reports (2005 – 2007)
- SNCB Holding Annual Reports (2005 – 2006)

3.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- SNCB SA website[50]
- Infrabel SAwebsite[51]
- Bank of Belgium website[52]
- Meeting with Service public federal Mobilite et Transports, January 2009
- Correspondence with Service public federal Mobilite et Transports, December 2008 – January 2009
- Correspondence with Infrabel SA, February – March 2009
- Correspondence with SNCB SA, March 2009
- Belgian legal database[53]
- Desk based research

3.6 SNCB Holding

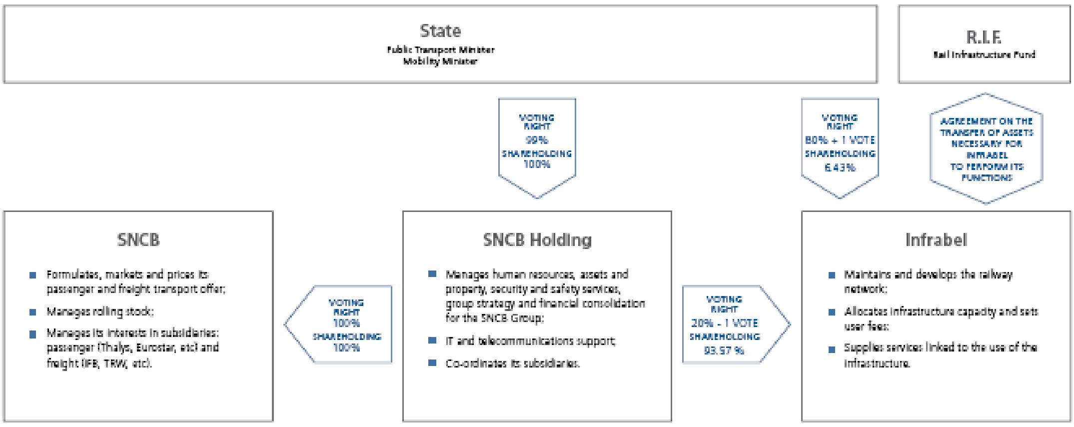
3.6.1 The Belgian railway company, SNCB was formed in 1926 as the the state owned integrated railway undertaking, offering freight, passenger and infrastructure services.

3.6.2 In 2005, SNCB became a holding group (SNCB Holding) with two main subsidiaries[54]; the infrastructure manager, Infrabel SA, and the main transport operator, SNCB SA (see Figure 3). SNCB Holding remains wholly state owned

[47] Belgian legal database, www.juridat.be
[48] Ibid
[49] Ibid
[50] www.b-rail.be, February 2009
[51] www.infrabel.be, February 2009
[52] www.bnb.be, April 2009
[53] www.juridat.be
[54] www.b-rail.be, April 2009

and receives subsidies to support its operations and continued investment in infrastructure.

Figure 3: SNCB Group Structure and functions[55]



3.6.3 The SNCB Holding accounts for 2005, 2006 and 2007 appear to have been published.

3.6.4 We have reviewed a document which was published by the Ministry of Transport on their website.[56] Annex 7 of this document appears to set out all sources of public funding to state owned railways. This includes tables of funding for SNCB SA, Infrabel SA and SNCB Holding, predominantly for operations and investment. This included the following public funding data for SNCB Holding.

Table 23 Public funding from all sources - SNCB Holding

Year	Amount (€m)	Type	Source
2005	164	Operating grants	Public Domain[57]
	0.76	Grant for accidents	Public Domain
	119	Investment grant	Public Domain
	370	GEN funds	Public Domain
2006	187	Operating grants	Public Domain
	5	'Special Missions'	Public Domain
	0.53	Grant for accidents	Public Domain
	173	Investment grant	Public Domain
2007	193	Operating grants	Public Domain
	18	'Special Missions'	Public Domain
	0.52	Grant for accidents	Public Domain
	126	Investment grant	Public Domain
	211	GEN funds	Public Domain

3.6.5 According to the Ministry of Transport[58], SNCB Holding receives PSO funding directly for the fulfilment of several obligations imposed by article 156 of the law of 21st March 1991. In return for this funding, SNCB Holding is obliged to:

a) Keep shares in the capital stock of SNCB and Infrabel

b) Maintain security and surveillance on the railways

c) The acquisition, building, maintenance and management of stations.

d) The conservation of the historical patrimony

3.6.6 A report by the Belgian Court of Auditors in October 2008, commissioned in March 2008 to investigate public funding allocated to SNCB Holding, SNCB SA

[55] Infrabel SA Annual Report 2007, p 13
[56] http://www.mobilit.fgov.be/data/rail/CGHoldingApf.pdf
[57] See 3.6.4
[58] Correspondence with Service public federal Mobilite et Transports, June 2009

and Infrabel SA, highlights issues with the way in which grants from the state were used between 2005 and 2007. During this period, the Ministry of Transport granted funds amounting to €2,858.2m ‘for the realisation of investment programmes’ and €4,403m ‘for the operation of public service activities.’ In addition to this the group as a whole has received €753m and €581m for investment in a ‘high speed link’ and RER (Regional Express Network) respectively. Further, SNCB Holding received a capital increase of €510m.[59]

3.6.7 The capital increase of €510m was highly scrutinised as they were distributed as €244.8m to commercial sectors for sunk costs and €265.2m to the non commercial, public service sectors. €181.2m of this amount was then loaned to commercial sectors. The report claims that a loan at a market rate of interest is allowed, however, it is subject to strict conditions such as the temporary use of these funds and the commercial sector’s financial capability to repay. The report says of this ‘Given the gross margin of financing during the 2005 – 2007 period, one may legitimately doubt the fulfilment of the last condition.’

3.6.8 According to the report, their analysis shows that ‘the means meant for the capital increase must be considered to be public funds. Given the fact that capital increases have been appropriated to commercial sectors to a global amount of €426m, directly in sunk costs and indirectly, by means of an internal loan, this financial procedure is debatable with regards to European regulations on State aid.’[60]

3.6.9 The Court of Auditors found that public finances have ‘not been wholly and exclusively assigned to the missions of public service for SNCB Group companies’[61] during the period 2005 – 2007 and that ‘Despite progressive improvements, some problems which prevent complete transparency of the appropriation of financial flows remain…’

3.7 SNCB SA

3.7.1 SNCB SA, the transport operating subsidiary of SNCB Holding was formed in 2005. It has separate divisions responsible for passenger transport (also known as B-rail), and freight transport (B-Cargo).

3.7.2 B-rail, through SNCB, is the only licensed passenger operator in Belgium and is wholly state owned (see Figure 3). Consequently, B-rail’s operations are partially financed by public funding for public service obligations.[62]

3.7.3 The freight market has been liberalised since 2007 and B-Cargo now has several competitors – though it retains a market share of around 90%.[63] In 2007, B-Cargo generated around 18.4% of SNCB’s total revenue.[64]

3.7.4 SNCB SA publishes its own accounts, separate to those of the holding company (SNCB Holding) and Infrabel SA which we have obtained copies of for the financial years ending 2005, 2006 and 2007.

3.7.5 We have attempted to obtain information directly from SNCB SA; however, they have declined to provide information.[65]

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59 Cour des Comptes, Financement federal des missions de service public de la SNCB, d’Infrabel et de la SNCB Holding, October 2008, p 78
60 Ibid
61 Ibid, p 1
62 SNCB SA Annual Report 2007, p 32
63 Correspondence with ERFA, March 2009
64 SNCB SA Annual Report 2007, p 22
65 Correspondence with SNCB SA, March 2009

Table 24 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Poor	'In the opinion of the College des Commissaires (Joint Statutory Auditors) the annual accounts ended December 2007 give a true view of the financial situation and results of the company, in accordance with accounting standards applicable in Belgium.' College des Commissaires (Joint Statutory Auditors), May 2008. However, there were some concerns expressed (See 3.7.6).
Transparency	Partial	There is a good level of detail in the 2007 accounts with general detail given about all parts of the company. The profit and loss accounts and balance sheets by sector give detailed breakdowns of assets, liabilities, income and costs, separated into those relating to Goods, Passenger PSO and Passenger non PSO. There is also an explanation of the way in which these are allocated.[66] However, the audit report underlines serious concerns relating to the allocation of capital increases since 2005 (see 3.7.7) which undermines the transparency of the accounts.
Visibility of transfers from/to other rail businesses	Partial	There is little mention and no detail of transfers to non group rail businesses. However, perhaps this is because the cargo, passenger and infrastructure companies exist within SNCB Holding and no other operator provides infrastructure or passenger services in Belgium.
Visibility of intra-group transfers	Partial	There is detail of the income that each of SNCB's subsidiaries generate. A breakdown of costs shows the amount of infrastructure charges the transport subsidiaries of SNCB SA pay to Infrabel SA, however, this gives no detail of charges paid by freight and passenger operators.[67] The audit report shows that there are issues relating to the allocation of capital increases between the activities of SNCB which potentially amount to state aid. The auditors conclude that SNCB SA does not comply with the EU directives relating to accounting separation and the Belgian law transposing them.[68]

3.7.6 Notes

(a) 'In conclusion, the College des Commissaires find:

i) The accounts conform with the business rules decided by the Board of Directors;

ii) The accounts, given by sector activity, undoubtedly give greater transparency, particularly with respect to the various capital increases made in each sector since 2005. However, these accounts and valuation rules do not yet meet the requirements of European directives such as translated into Belgian law by the Act of 21st March 1991 to reform public businesses.

[66] Ibid, pp 103 – 108
[67] Ibid, p 112
[68] SNCB, Annual Report 2007, p 134

iii) Notwithstanding the conclusion of the report of the two firms appointed by the company and the holding group – which refer exclusively to European law – the College can not confirm that these operations, capital increases and their management contracts conform to the law of 21st March 1991 and with European directives.

iv) There still seem to be differences of opinion between the company and its parent on the legal and economic aspects of the allocation of these capital increases.'[69]

3.7.7 These qualifications in the audit report are relevant to this study. In the cashflow tables that SNCB SA use as a basis for the allocation of financial income and expenditure it is shown that capital increases of €510m since 2005 are allocated to the various sectors, of which €265.2m was allocated to the public service sector of the company. €176.3m of this was subsequently loaned to commercial activities (B-Cargo and International) with interest applied at a market rate. Consequently, a total of 82.5% of the total €510m capital increase was ultimately allocated to the commercial activities.

3.7.8 The auditors point out that this contravenes the rules of the Board of Directors, Article 3 of their management contract with the state, the amended law of 21st March 1991 (Article 221) and the European Directives underpinning it.

3.7.9 The auditors conclude that '…the accounts and the underlying valuation rules still do not comply with the European directives as transposed into Belgian law by the Law of 21st March 1991 on the reform of certain State-owned economic undertakings' and that 'the Committee is unable to confirm the conformity of these capital increase operations and their allocation with the management contracts, the Law of 21st March 1991 and the European directives.'

Table 25 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Infrabel SA and SNCB SA are legally separate and publish separate accounts which include P&Ls and balance sheets.
6.1(a)	Requirement to publish separated accounts	Yes	These accounts are published and are available for download on the SNCB websites.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	Annex 7 of a document on the Ministry of Transport's website[70] seems to point to an amount of €41m of public funding allocated for transfer from Infrabel SA to SNCB SA. This has been explained to us[71] as the result of a modification of the parameters for the calculation of the infrastructure fee in 2006 which increased the costs of SNCB. As part of this was attributable to PSO activities, SNCB compensation from the state was increased by around €41m and Infrabel's was decreased by the same amount.

69 Ibid, pp 134 – 135
70 http://www.mobilit.fgov.be/data/rail/CGHoldingApf.pdf
71 Correspondence with Service public federal Mobilite et Transports, June 2009

6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by SNCB SA. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	SNCB SA and Infrabel SA are legally separate entities under the holding company.
9.4	Separate P&L and balance sheets kept and published for freight operations.	No	Within the accounts (which are published on the company's website), a separate P&L is produced for B-Cargo but not balance sheet.[72] However, the balance sheet and P&L is separated by sector which gives separate figures for the transport of goods.[73] The P&L for Goods does not match the P&L for B-Cargo. The auditors do not believe that the manner in which this is done complies with the European directives, saying 'the accounts and the underlying valuation rules still do not comply with the European directives as transposed…' in reference to the separation of the accounts by sector of activity. The questionable accuracy of the accounts is further demonstrated by 3.7.10 and Figure 4.
9.4(a)	Requirement to publish separated accounts	Yes	The separate P&L and balance sheets are published inside the SNCB SA accounts, which are published and are available for download on their website.
9.4	Funds for PSO transport activities shown separately in accounts	No	In the balance sheet and P&L separated by sector, public transport for public service is one of the categories. Hence, all revenues and costs allocated to PSO are given separately. However, the different PSO contracts are not shown separately with only single figures for 'State subsidy for public service role' given.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	Information obtained in the public domain seems to point to an amount of €41m of public funding (possibly part of PSO) allocated for transfer from Infrabel to SNCB. However, article 9.4 of the

[72] SNCB Annual Report 2007, p 111
[73] Ibid, p 112 – 117

			legislation only refers to PSO for passenger transport being transferred to other areas.

3.7.10 It appears that SNCB SA owns its own rolling stock ('Fittings and rolling stock' are worth over €2bn according to the 2007 balance sheet), although it seems that none of these costs are allocated to the freight division of the company (see Figure 4).

Figure 4 SNCB SA fixed assets by sector

Assets (in euros)	Total SNCB 2007	Undistributed 2007	Goods 2007	Passenger Transport public service 2007	Other Passenger Transport 2007
FIXED ASSETS					
I. Preliminary expenses					
II. Intangible fixed assets	**57,593,545.59**		**11,543,885.93**	**45,334,623.46**	**715,036.20**
III. Tangible fixed assets	**2,852,093,098.23**		**533,418,610.40**	**2,025,903,303.08**	**292,771,184.75**
A. Land and buildings	162,108,093.07		46,481,635.57	86,380,336.92	29,246,120.58
B. Plant, machinery and equipment	200,404,218.20		71,975,780.06	96,963,365.92	31,465,072.22
C. Fittings and rolling stock	2,036,700,002.90			1,414,300,893.08	218,403,675.82
D. Finance leasing and similar interests					
E. Other tangible fixed assets	23,918,556.56		4,322,464.32	16,927,826.90	2,668,265.34
F. Fixed assets under construction and payments on account	428,962,227.50		6,643,296.45	411,330,880.26	10,988,050.79

3.7.11 We note that the figures given for tangible assets for Goods do not equal the total of €533m.

3.7.12 In our view, SNCB SA does not comply with the EC directives on accounting separation or the domestic laws which transpose them. Specifically;

- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.
- Article 9.4 – The auditors argue that the manner in which SNCB SA have separated their accounts for freight and passenger transport does not comply with the EU directives.
- Article 9.4 – The PSO figures shown in the accounts do not give disaggregated figures for the different PSO contracts.
- Article 9.4 – The auditors point out the way in which public funding for capital increases is dealt with in the accounts potentially conflicts with the EU directives. A complaint was lodged with the European Commission in 2008 relating to this and investigations are ongoing.

Table 26 Public funding from accounts - SNCB[74]

Year	2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
PSO	772	PSO	826	PSO	844	PSO
Investment grants			77	Capital subsidy	184	Investment grant
Total	772		903		1,028	

Table 27 Public funding from other sources - SNCB

Year	Amount (€m)	Type	Source
2005	781	Operating grants	MoT
	134	Investment grant	Public Domain[75]
2006	856	Operating grants[76]	MoT
	170	Investment grant	Public Domain
2007	894	Operating grants	MoT
	261	Investment grant	Public Domain
	4	HST Investment[77]	Public Domain

3.7.13 We have reviewed a document which was published by the Ministry of Transport on their website.[78] Annex 7 of this document appears to set out all sources of public funding to state owned railways. This includes tables of funding for SNCB SA, Infrabel SA and SNCB Holding, predominantly for operations and investment.

3.7.14 Whilst the amounts of public funding for operation recorded in the SNCB SA accounts does not agree with the amounts provided by the Ministry of Transport, this could be as a result of timing issues or various other accountancy differences. This should explain the relatively small differences between the numbers quoted in the two sources.

3.7.15 The SNCB SA accounts, however, do not clearly show the amounts of investment subsidy paid to them by the state. The capital subsidy and investment grant figures in Table 26 had to be calculated from the differential between each year's capital subsidy or investment grant entry in the balance sheet (as the company was formed in 2005, this was not possible for this year.) Clearly, there are large differences between the investment grants from the state and those recorded in the accounts and, hence, the transparency of the accounts is poor in this respect.

[74] SNCB Annual Reports 2005 – 2007
[75] See 3.7.13
[76] Including a €41m transfer of state funding from Infrabel
[77] High speed train investments
[78] http://www.mobilit.fgov.be/data/rail/CGHoldingApf.pdf

Table 28: Summary Financial Data – Consolidated SNCB Accounts

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	0	1,996	2,163	2,264
Revenue from Passenger transport	0	1,574	1,666	1,755
Revenues from Freight transport	0	379	433	449
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	772	826	844
Wages, Salaries, Social Security Payments	0	0.06	0.06	0.06
Operating costs	0	2,226	2,332	2,339
Operating profit	0	-230	-170	-75
Financial expenses	0	3	9	-1
P&L on ordinary activities before tax	0	-121	-70	47
Total fixed assets	0	2,755	2,801	2,966
Long term receivables	0	65	60	56
Total current assets	0	944	1,260	1,146
Trade debtors	0	315	354	361
Other debtors	0	213	614	478
Current asset investments	0	118	0	13
Cash at bank and in hand	0	11	11	10
Creditors: <1yr (Current Liabilities)	0	636	793	612
Creditors: >1yr	0	1	11	0
Provisions for liabilities and charges	0	230	225	202
Equity	0	2,898	3,092	3,354
	No. / Km			
Average no. employees	-	-	-	-
Passenger-kilometres (m)	0	9,150	8,521	8,851
Tonne-kilometres (m)	0	8,130	8,442	8,149
Managed kilometres	0	0	0	0

Table 29: Financial Ratios – Consolidated SNCB Accounts

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	0	1,996	2,163	2,264
Net profit (€m)	0	-121	-70	47
Operating profit (€m)	0	-230	-170	-75
Total assets (€m)	0	3,764	4,121	4,168
Profitability				
Operating profit margin	-	-12%	-8%	-3%
Net margin	-	-6%	-3%	2%
Return on assets	-	-3%	-2%	1%
Return on equity	-	-4%	-2%	1%
Viability ratio	-	1	1	1
Efficiency				
Liabilities / operating costs	-	0.4	0.4	0.3
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	-	-	-	-
Unit operating costs (€ '000)	-	243	274	264
Total Revenue per Passenger Km (€)	-	0.22	0.25	0.26
Total Revenue per Freight Km (€)	-	0.25	0.26	0.28
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	-	0	0	0
Debt / Total liabilities	-	0%	0%	0%
Debt: Equity ratio	-	0.0	0.0	0.0
Quick ratio	-	1.0	1.2	1.4
Current ratio	-	1.5	1.6	1.9
Debt service coverage ratio	-	-73.0	-19.3	51.5
Public funding				
Total public income (€m)	0	772	826	844
Public funding / costs	-	35%	35%	36%
Public funding / revenue	-	39%	38%	37%

Table 30 Summary Financial Data – Passenger activities

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	-	1,320	1,437	1,803
Revenue from Passenger transport	-	1,287	1,391	1,755
Revenues from Freight transport	-	0	0	0
Revenue from infrastructure charges	-	0	0	0
Total subsidisation	-	772	826	844
Wages, Salaries, Social Security Payments	-	-	-	-
Operating costs	-	1,430	1,532	1,902
Operating profit	-	-111	-95	-99
Financial expenses	-	4	0	3
P&L on ordinary activities before tax	-	-3	7	16
Total fixed assets	-	1,599	1,910	2,071
Long term receivables	-	27	28	29
Total current assets	-	469	858	678
Trade debtors	-	126	136	128
Other debtors	-	147	541	341
Current asset investments	-	0	0	0
Cash at bank and in hand	-	0	0	0
Creditors: <1yr (Current Liabilities)	-	430	549	427
Creditors: >1yr	-	0	0	0
Provisions for liabilities and charges	-	136	145	140
Equity	-	1,847	1,924	2,108
	No. / Km			
Average no. employees	-	-	-	-
Passenger-kilometres (m)	8,676	9,150	8,521	8,851
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

Table 31: Financial Ratios – Passenger activities

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	-	1,320	1,437	1,803
Net profit (€m)	-	-3	7	16
Operating profit (€m)	-	-111	-95	-99
Total assets (€m)	-	2,096	2,797	2,779
Profitability				
Operating profit margin	-	-8%	-7%	-5%
Net margin	-	0%	0%	1%
Return on assets	-	0%	0%	1%
Return on equity	-	0%	0%	1%
Viability ratio	-	0.92	0.94	0.95
Efficiency				
Liabilities / operating costs	-	0.4	0.5	0.3
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	-	-	-	-
Unit operating costs (€ '000)	-	156	180	215
Total Revenue per Passenger Km (€)	-	0.14	0.17	0.20
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	-	-232	-151	0
Debt / Total liabilities	-	-41%	-22%	0%
Debt: Equity ratio	-	-0.1	-0.1	0.0
Quick ratio	-	0.6	1.2	1.1
Current ratio	-	1.1	1.6	1.6
Debt service coverage ratio	-	-28.1	-416.6	-34.0
Public funding				
Total public income (€m)	-	772	826	844
Public funding / costs	-	54%	54%	44%
Public funding / revenue	-	58%	57%	47%

3.7.16 SNCB SA's passenger activities have reduced their losses between 2005 and 2007 though it is clear that a large proportion (around half) of its revenues are driven by public funding. However, given the remarks of the auditor's report in 2007 about the allocation of funds to the various activities, the reliability of these separated accounts for passenger activities is questionable. The total SNCB SA accounts are more useful for analysis.

3.7.17 Around 40% of SNCB SA's total revenue is made up of public funding since 2005. During this period, the amount of public funding received by SNCB SA for its public service obligations has increased by around 9% and total revenues have increased by around 11%. Net profit has also increased and, in 2007, SNCB SA posted its first net profit.

3.8 Infrabel SA

3.8.1 Infrabel SA is the infrastructure managing subsidiary of SNCB Holding. It was formed in 2005 as a result of national legislation (see 3.4.2) and publishes its own accounts. SNCB Holding own 92.66% of the shares of Infrabel SA, with the Belgian state holding the remainder. Despite this, the state holds 80% of the voting rights in the company in order to promote independence from SNCB SA.

3.8.2 Infrabel SA is responsible for the investment and maintenance of the infrastructure, the organisation of traffic and the allocation of capacity. Infrabel SA has a public service contract with the state to fulfil these functions and receives funding to do so. These are outlined in the management contracts. The first of these ran from 2005 – 2007 and the second of these runs from 2008 – 2012.

3.8.3 When SNCB was separated in 2005, ownership of the railway infrastructure assets fell to the Railway Infrastructure Fund (FIF). Infrabel SA, between 2005 and 2007, paid €300m per annum to the FIF to operate these assets. In September 2008, ownership of these assets was transferred to Infrabel SA as a result of national legislation and the associated debt was transferred to the State.[79]

Table 32 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion the financial statements for the year ended 31st December 2007 give a true and fair view of the company's assets and liabilities, its financial position and results of its operations in accordance with the financial reporting framework applicable in Belgium.' College de Commissaires (Joint Statutory Auditors) May 2008[80]
Transparency	Good	The accounts show a good level of detail, including breakdowns of the sources of income and expenditure.
Visibility of transfers from/to other rail businesses	Partial	There is mention of Infrabel's 5 non group customers; DLC, SNCF-Fret, Rail4Chem and TrainsporT and revenue generated from infrastructure charges, however, this is not broken down by company.
Visibility of intra-group transfers	Good	There are breakdowns of income[81] and expenditure[82] from other companies within SNCB Holding,

[79] Royal Decree on the restructuring of the railway infrastructure, 28th September 2008, www.juridat.be
[80] Infrabel Annual Report 2007, p 116
[81] Ibid, p 98
[82] Ibid, p 100

Table 33 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Infrabel SA and SNCB SA are legally separate and publish separate accounts which include P&Ls and balance sheets. These are published on the company's website and are available for download.
6.1(a)	Requirement to publish separated accounts	Yes	These accounts are published and are available for download on the Infrabel website.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	Information in a document found on the Ministry of Transport's website[83] (annex 7) seems to point to an amount of €41m of public funding allocated for transfer from Infrabel to SNCB. This has been explained to us[84] as the result of a modification of the parameters for the calculation of the infrastructure fee in 2006 which increased the costs of SNCB. As part of this was attributable to PSO activities, SNCB compensation from the state was increased by around €41m and Infrabel's was decreased by the same amount.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not probided by Infrabel SA. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	SNCB SA and Infrabel SA are legally separate entities under the holding company.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	Infrabel SA does not have a freight operating division and is legally separate from SNCB SA.
9.4(a)	Requirement to publish separated accounts	Yes	Infrabel SA does not have a freight operating division and is legally separate from SNCB SA.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	Infrabel SA receives no PSO for passenger transport.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	Infrabel SA receives no PSO for passenger transport.

[83] http://www.mobilit.fgov.be/data/rail/CGHoldingApf.pdf
[84] Correspondence with Service public federal Mobilite et Transports, June 2009

3.8.4 In our opinion, Infrabel SA is not fully compliant with the EU directives on accounting separation, in particular;

Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.

Table 34 Public Funding from accounts[85]

Year	2005		2006		2007	
Type	**Amount (€m)**	**Use**	**Amount (€m)**	**Use**	**Amount (€m)**	**Use**
PSO	455	PSO	425	PSO	435	PSO
Investment grants			57	Capital & interest subsidies	101	Investment grants & interest subsidies
	519	State funding for investment financing[86]	650	Capital subsidies of the supervisory state for financing assets[87]	558	State funding for the financing of investments[88]
Total	455		1,132		1,094	

85 Infrabel Annual Reports 2005 – 2007
86 Infrabel Annual Reports 2005, p 6
87 Infrabel Annual Report 2006, p 100
88 Infrabel Annual Report 2007, p 7

Table 35 Public funding from other sources

Year	Amount (€m)	Type	Source	Agreed to accounts
2005	457	PSO	MoT[89]	No
	562	Investment subsidy	Public Domain*	No
	455[90]	Operational subsidy (PSO)	Infrabel[91]	Yes
	565[92]	Investment subsidy	Infrabel	No
	3	EU grants for investment	Infrabel	No
2006	425[93]	PSO	MoT	Yes
	639	Investment subsidy	Public Domain*	No
	425[94]	Operational subsidy (PSO)	Infrabel	Yes
	598[95]	Investment subsidy	Infrabel	No
	7	EU grants for investment	Infrabel	No
2007	435	PSO	MoT	Yes
	673	Investment subsidy	Public Domain*	No
	435[96]	Operational subsidy (PSO)	Infrabel	Yes
	618[97]	Investment subsidy	Infrabel	No
	2	EU grants for investment	Infrabel	No

3.8.5 In Table 34 and Table 35 the references marked with an asterix are from a document obtained from the public domain which detailed all public funding to SNCB SA, Infrabel SA and SNCB Holding between 2005 and 2007 and all funding scheduled between 2008 and 2012 (see 3.7.13).

3.8.6 The tables show the amount of public funding received by Infrabel SA according to the Infrabel accounts (Table 34) and the amounts according to Infrabel and the Ministry of Transport (Table 35). The discrepencies between the two tables could be as a result of timing and other differences in the way they are accounted for.

3.8.7 Of particular interest is the €41m transfer with SNCB in 2006. This has been explained by the Ministry of Transport who said;

Infrabel modified the parameters for the calculation of the infrastructure fee from the year 2006 resulting in a significant increase of the costs of the railway undertakings. This extra burden also on the trains fulfilling the public service obligations was borne by the federal State, thus only the additional costs for domestic passenger trains under contract is compensated.

The same amount has been subtracted from the subsidies of Infrabel. So, from 2006 an annual amount of 40.583k EUR 2005 (41.469 k EUR 2006) has been shifted from the compensations for Infrabel to the compensations for SNCB.

[89] MoT references are from correspondence with Service public federal Mobilite et Transports, January 2009
[90] Of which; €153m received in 2006
[91] Infrabel references are from correspondence with Infrabel, March 2009
[92] Of which; €12m received in 2006
[93] €41m of public funding was transferred to SNCB in 2006
[94] Of which; €144m received in 2007
[95] Of which; €20m received in 2007
[96] Of which; €146m received in 2008
[97] Of which; €14m received in 2008

Table 36: Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric		Million Euros		
Total revenue	N/A	1,435	1,482	1,501
Revenue from Passenger transport	N/A	0	0	0
Revenues from Freight transport	N/A	0	0	0
Revenue from infrastructure charges	N/A	0	0	0
Total subsidisation	N/A	455	425	435
Wages, Salaries, Social Security Payments	N/A	689	699	701
Operating costs	N/A	1,439	1,510	1,534
Operating profit	N/A	-4	-27	-33
Financial expenses	N/A	12	6	28
P&L on ordinary activities before tax	N/A	51	48	71
Total fixed assets	N/A	3,516	4,354	4,992
Long term receivables	N/A	9	9	8
Total current assets	N/A	1,091	1,025	1,204
Trade debtors	N/A	590	632	429
Other debtors	N/A	0	0	0
Current asset investments	N/A	352	230	576
Cash at bank and in hand	N/A	0	0	0
Creditors: <1yr (Current Liabilities)	N/A	518	618	681
Creditors: >1yr	N/A	1	1	0
Provisions for liabilities and charges	N/A	63	81	90
Equity	N/A	4,034	4,687	5,432
		No. / Km		
Average no. employees	N/A	13,628	13,488	12,266
Passenger-kilometres (m)	N/A	0	0	0
Tonne-kilometres (m)	N/A	0	0	0
Managed kilometres	0	3,536	3,500	3,374

Table 37: Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	N/A	1,435	1,482	1,501
Net profit (€m)	N/A	51	48	71
Operating profit (€m)	N/A	-4	-27	-33
Total assets (€m)	-	4,617	5,387	6,204
Profitability				
Operating profit margin	-	0%	-2%	-2%
Net margin	-	4%	3%	5%
Return on assets	-	1%	1%	1%
Return on equity	-	1%	1%	1%
Viability ratio	-	1	1	1
Efficiency				
Liabilities / operating costs	-	0.4	0.5	0.5
Cost per staff member (€ '000)	-	106	112	125
Staff costs as a proportion of operating costs	-	48%	46%	46%
Unit operating costs (€ '000)	-	407	431	455
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	0.41	0.42	0.44
Indebtedness				
Total debt of the company (€m)	-	0	0	0
Debt / Total liabilities	-	0%	0%	0%
Debt: Equity ratio	-	0.0	0.0	0.0
Quick ratio	-	1.8	1.4	1.5
Current ratio	-	2.1	1.7	1.8
Debt service coverage ratio	-	-0.3	-4.4	-1.2
Public funding				
Total public income (€m)	N/A	455	425	435
Public funding / costs	-	32%	28%	28%
Public funding / revenue	-	32%	29%	29%

3.8.8 The tables show that around 30% of Infrabel SA's revenues are from public funding. It has generated pre tax profits throughout this period but has made considerable operating losses.

3.8.9 It should be pointed out that when Infrabel was formed in 2005, SNCB's 'historic debt' (around €7.4bn) became the responsibility of the Railway Infrastructure Fund, along with ownership of the infrastructure. Infrabel SA is obliged to pay FIF €300m per year for access to the infrastructure assets. As mentioned above, these assets were transferred to Infrabel in 2008 as a result of national legislation.

3.9 Conclusion

3.9.1 Based on the information available, we can conclude the following:

- National transposition of the accounting separation directives is, arguably, not complete. There is a lack of clarity on the prohibition of the transfer of public funds as the law fails to refer to the transfer of infrastructure funding and does not require that all public funds are shown separately in accounts to reflect the prohibition on their transfer.
- The Belgian Court of Auditors are responsible for the monitoring of compliance with accounting separation requirements.
- They have serious doubts about the compliance of SNCB with the accounting separation requirements. A report published in 2008 by the Belgian Court of Auditors points to capital increases assigned to SNCB Holding which were, it was deemed, inappropriately distributed to commercial sectors and, debatably, in contravention of EU regulations on State aid.
- According to the Court of Auditors, public finances have 'not been wholly and exclusively assigned to the missions of public service for SNCB Group companies' during the period 2005 – 2007 and that 'Despite progressive improvements, some problems which prevent complete transparency of the appropriation of financial flows remain…'
- Of SNCB SA, the auditors conclude that '…the accounts and the underlying valuation rules still do not comply with the European directives as transposed into Belgian law…' and that 'the Committee is unable to confirm the conformity of … capital increase operations and their allocation with the management contracts, the Law of 21st March 1991 and the European directives.'
- Due to these concerns, in our opinion, SNCB Group is not in compliance with the national legislation or the underlying EC directives for the period 2004 – 2007. We understand that official proceedings by the European Commission relating to the above concerns are ongoing.[98]

[98] Correspondence with SNCB SA, March 2009

4 BULGARIA

4.1 Industry overview

4.1.1 Bulgarian railway infrastructure was vertically separated from transport in 2002. Since 2007, national RUs have had open access to national rail freight and (purely commercial) rail passenger markets. However, there is currently no financial appeal to entering the passenger market because state regulated ticket prices would not cover the cost of operations. Passenger transport under public service contracts are reserved for the state-run railway *BDZ EAD.* Private rail passenger operators are therefore not active on the Bulgarian rail market.

4.1.2 Transit and access rights for foreign passenger operators exist only on the basis of Directive 91/440/EEC, whereas foreign rail freight operators have open access.

4.1.3 Non-discriminatory treatment of RUs in train path allocation is stipulated by law in Ordinance 41 of the Bulgarian Ministry of Transport (access to and use of railway infrastructure). IBM reported that, in 2007, the infrastructure manager's network statement was deemed not to be compliant with Directive 2001/14/EC. However, according to *National Railway Infrastructure Company (NRIC)*, this will be changed in the near future.

4.1.4 The industry regulator is the *Railway Administration Executive Agency*, which is a part of the Ministry of Transport, is responsible for licensing, safety certification and rolling stock homologation. IBM reported that, in 2007, the Agency had no staff to deal with rail regulation matters. Moreover, objections to decisions made by the Agency have a suspensive effect.

4.1.5 Infrastructure charging has a linear structure and there are no discounts. Government carries most of the deficit of the loss-making passenger transport business of BDZ. An open market exists for private RUs operating in Bulgaria, using NRIC infrastructure and at times competing with BDZ. Three such RUs account for about 3 per cent of the rail freight transport market, BDZ holding the rest of the market, entering business in 2008.

4.1.6 Bulgaria is an important transit point for transport to Greece and Turkey and various foreign RUs have indicated an interest to NRIC in operating international transports from Western Europe to Turkey through Bulgaria in the future. The EU Project CREAM gives Bulgaria a central role on that corridor. International transport accounts for about 20 per cent of the total volume of rail freight transport in tonne kilometres.

4.1.7 The modal share of rail freight transport was reported by IBM at 25.2 per cent in 2005.

4.2 List of Licensed Railway Undertakings

Passenger	Freight	Infrastructure Manager
BDZ Putnicheski Prevosi	BDZ Tovarni Prevosi Bulgarian Railway Company Bulmarket	NRIC (National Rail Infrastructure Manager)

4.3 Industry Regulator & Government Departments

4.3.1 Regulatory Authorities

- The Railway Administration Executive Agency [99]

4.3.2 Government departments:

- Ministry of Finance[100]
- Ministry of Transport[101]

4.4 Legal Framework

4.4.1 The Railway Transport Law, 2000 is the relevant legislation in Bulgaria.[102]

4.4.2 EC directive 2001/12/EC implemented through the Ministry of Transport Railway Transport Law, applicable from 01.01.2002, published in the State Gazette number 97. Amendments: number 47, 10.05.2002, number 96, 11.10.2002, number 70, 10.08.2004, number 115, 20.12.2004.

4.4.3 EC directive 2001/13/EC implemented through the Ministry of Transport Regulation No. 42, 06.07.2001 for the licensing of railway undertakings for the purposes of the transportation of passengers and/or goods and of persons issued safety certificate. Published in State Gazette number 67.

4.4.4 EC directive 2001/14/EC implemented through the Ministry of Transport Regulation No. 41, 27.06.2001 for the access to and use of the railway infrastructure. Published by the Minister of Transport in the State Gazette number 64. Amended in number 50 from 30.05.2003.

Table 38 EC Directive 2001/EC/12 compliance

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	'(1) A national company "Railway Infrastructure" shall be established with a state-owned company status under art. 62, para. 3 of the Commercial Code. (2) The "Railway Infrastructure" National Company shall be a legal entity with a seat in the city of Sofia. (3) The "Railway Infrastructure" National Company shall be a manager of the railway infrastructure. (4) The "Railway Infrastructure" National Company shall take care

99 www.iaja.government.bg/IAJI/engwwwFWRAEA.nsf/index.htm?ReadForm

100 www.minfin.bg/en/

101 www.mt.government.bg/index.php

102 ***Prom. SG. 97/28 Nov 2000, amend. SG. 47/10 May 2002, amend. SG. 96/11 Oct 2002, amend. SG. 70/10 Aug 2004, amend. SG. 115/30 Dec 2004, amend. SG. 77/27 Sep 2005, amend. SG. 88/4 Nov 2005, amend. SG. 36/2 May 2006, amend. SG. 37/5 May 2006, amend. SG. 62/1 Aug 2006, amend. SG. 92/14 Nov 2006, amend. SG. 108/29 Dec 2006***

103 Article 9, Law for the Railway Transport, 2000, amended as above

			of and manage the property, granted to it - public and private state-owned property.'[103] We have seen accounts for NRIC, but only limited financial statements from BDZ.
6.1(a)	Requirement to publish separated accounts	No	We did not identify any legislation requiring the publication of separated accounts.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	No	'The state shall take part in the funding of activities on construction, support, development and operation of the railway infrastructure including the production, storage and maintenance of capacities and material means for realisation of defensive and mobilisation events of the country. The amount of funding shall be determined within a long-term contract between the state, represented by both the Minister of Finance and the Minister of Transport, on the one hand, and the "Railway Infrastructure" National Company, on the other.'[104]
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	'The [NRIC] cannot participate in commercial companies which perform railway transportation as their activity.'[105]
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	(1) A national company "Railway Infrastructure" shall be established with a state-owned company status under art. 62, para. 3 of the Commercial Code. (2) The "Railway Infrastructure" National Company shall be a legal entity with a seat in the city of Sofia. (3) The "Railway Infrastructure" National Company shall be a manager of the railway infrastructure. (4) The "Railway Infrastructure" National Company shall take care of and manage the property, granted to it - public and private state-owned property.'[106]
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities	No (i)	We have not been able to find any reference to this requirement.

[104] Art. 25. Law for the Railway Transport, 2000, amended SG 88/05
[105] Article 8 (3), Section I, Law for the Railway Transport, 2000
[106] Article 9, Law for the Railway Transport, 2000, amended as above

	shall be kept and published for businesses relating to the provision of rail freight transport services.’		
	Requirement to publish separated accounts	No	We did not identify any legislation requiring the publication of separated freight accounts.
9.4	’Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	No (ii)	We have not been able to find any reference to this requirement.
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other business.’	No	We have not been able to find any reference to this requirement.

4.4.5 Notes

(i) There are no separate profit and loss accounts that we have been able to see for BDZ’s freight division. However, there is no specific reference in domestic legislation to this being a requirement.

(ii) Grants are given to BDZ which are recorded, although use of this funding specifically for passenger services as public service remits is not detailed. There is no specific prohibition of funding transfer.

4.4.6 In our view Bulgaria has not fully implemented the EU directives on accounting separation. The infrastructure management and railway operating companies are indeed quite separate, but in terms of the directive, what we have seen of the domestic legislation (namely the Railway Act 2006) does not contain an explicit reference to the enactment of separate accounting practices for IMs and RUs.

4.4.7 It is not clear who is responsible for monitoring compliance with accounting separation compliance.

4.5 Sources of Information

4.5.1 Bulgarian laws and regulations:

- ‘Law for the Railway Transport’ 2000
- State Gazette Implementation of EU Directives 2001/12/EC, 2001/13/EC and 2001/14/EC, November 2005

4.5.2 Annual accounts:

- NRIC Annual Reports (2004 – 2007)
- BDZ Annual Reports (2004 – 2007)

4.6 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- Correspondence with Ministry of Transport
- Correspondence with NRIC

- o Correspondence with BDZ
- o Faber Maunsell AECOM report for the Bulgarian Transport Ministry on rail transport

4.7 Bulgarian State Railways (BDZ Group)

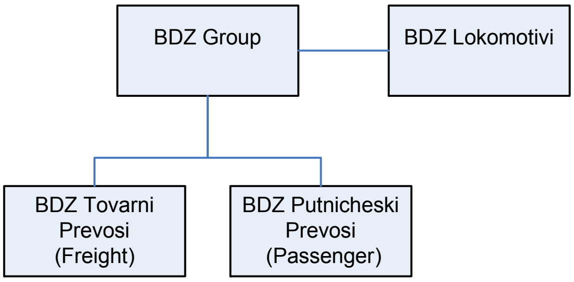
4.7.1 BDZ Group is the state-owned railway undertaking providing passenger and freight services. Until 2002, the company was fully vertically integrated, providing freight, passenger and infrastructure manager services.

4.7.2 As a result of the demerger in 2002 following separation of infrastructure manager and railway undertakings, railway operations were retained by the BDZ Group, with BDZ Putnicheski Prevosi taking responsibility for passenger services, and cargo falling to BDZ Tovarni Prevosi. The freight market was liberalised, paving the way for competition (represented through three independent freight providers). However, BDZ is guaranteed operation of passenger services for the next 10 years, so liberalisation in this sector is not yet fully complete.

4.7.3 A further company was created, BDZ Lokomotivi, providing locomotives and traction services for both freight and passenger operations.

4.7.4 BDZ Group generates revenues from several different activities, separated into subsidiaries under the group management.

Figure 5 Structure of BDZ Group



BDZ also generates revenues from other activities, such as shipping and handling of goods. These have amounted to 10% of its overall income but, in 2007, this nearly doubled to 18.4%. This is similar in size to the level of income provided through subsidy (18.2%).

4.7.5 The table below assesses whether BDZ's regulatory accounting processes are compliant with European requirements.

Table 39 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Not visible	We have no auditor comment on the quality of BDZ's accounts. The accounts were provided by BDZ in an official capacity as 'Consolidated Financial Reports'.
Transparency	Partial	The accounts provided reveal detail relating to railway issues such as track infrastructure charges and public funding, which is explicitly detailed. However, it is unclear what the 'other' income stream represents – particularly when this revenue tripled from 2006 to 2007.
Visibility of transfers from other rail businesses	Average	There are very few interactions between BDZ and other rail businesses other than infrastructure charges to NRIC. These costs are fairly clearly highlighted.
Visibility of intra-group transfers	Poor	There is no accounting split between BDZ's respective operating organisations. However, BDZ Lokomotivi provides traction for both of BDZ's passenger and freight divisions, so there is a sharing of assets.

Table 40 EC Directive 2001/EC/12 company compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	BDZ Group is a structurally separate company from the infrastructure provider, NRIC. BDZ's accounts were obtained on request through the organization, and are not publicly available (e.g. to download from the internet).
6.1(a)	Requirement to publish separated accounts.	Yes	The accounts for BDZ are not published and, hence, are not publicly available.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	BDZ Group is a structurally separate company from the infrastructure provider, NRIC.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by BDZ Group. Please see chapter 29 for further information on the requisite information.

6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	BDZ Group is a legally separate entity from the infrastructure provider, NRIC.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	No	All aspects of BDZ Group's annual accounts are presented together. There is simply one figure for revenues generated by freight. Therefore there is not full compliance.
9.4(a)	Requirement to publish separated accounts.	No	The separated freight accounts are not published.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	There is only one set of accounts for all activities within BDZ Group. What is shown is 'income from financing, including subsidies from the state'. It is not clear whether this is used for PSO or otherwise.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	We have not encountered any evidence suggesting the transfer of PSO funding is taking place.

4.7.6 BDZ is not wholly compliant with the requirements of the accounting separation directives. Specifically:

- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.
- Article 9.4 – We were unable to locate separated freight accounts. Figures for the group as a whole are given in aggregate.
- Article 9.4 – PSO funding is not shown separately from other types of government funding.

4.7.7 The company's operating and financial performance is shown in the table below. BDZ appears to have moved from an operating loss of €18 million in 2006 to an operating profit of €10 million in 2007. The company's debts are modest enough but it has a high level of gearing. The substantial increase in the current ratio suggests that the company may have reduced short term borrowing (due, perhaps, to less demanding working capital requirements) and increased the amount of long-term borrowing. This is confirmed by the changes in the creditor data between 2006 and 2007.

Only limited information was available for BDZ; accounts are not generally freely available.

Table 41 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	0	227	244	290
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	0	0	0	0
Operating costs	0	252	263	281
Operating profit	0	-24	-18	10
Financial expenses	0	0	0	0
P&L on ordinary activities before tax	0	-21	-15	12
Total fixed assets	0	152	292	285
Long term receivables	0	0	0	0
Total current assets	0	79	75	109
Trade debtors	0	33	31	28
Other debtors	0	4	13	31
Current asset investments	0	0	0	0
Cash at bank and in hand	0	8	5	28
Creditors: <1yr (Current Liabilities)	0	160	188	122
Creditors: >1yr	0	66	78	166
Provisions for liabilities and charges	0	0	0	0
Equity	0	5	101	107
	No. / Km			
Average no. employees	0	0	0	0
Passenger-kilometres (m.)	0	0	0	0
Tonne-kilometres (m.)	0	0	0	0
Managed kilometres	0	0	0	0

Table 42 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	0	227	244	290
Net profit (€m.)	0	-21	-15	12
Operating profit (€m.)	0	-24	-18	10
Total assets (€m.)	0	231	367	394
Profitability				
Operating profit margin	-	-11%	-7%	3%
Net margin	-	-9%	-6%	4%
Return on assets	-	-9%	-4%	3%
Return on equity	-	-440%	-15%	12%
Viability ratio	-	90%	93%	103%
Efficiency				
Liabilities / operating costs	-	0.9	1.0	1.0
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	-	0%	0%	0%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€ '000)	-	-	-	-
Indebtedness				
Total debt of the company (€m.)	0	96	112	180
Debt / Total liabilities	-	42%	42%	62%
Debt: Equity ratio	-	19.6	1.1	1.7
Quick ratio	-	0.3	0.3	0.7
Current ratio	-	0.5	0.4	0.9
Debt service coverage ratio	-	-	-	-
Public funding				
Total public income (€m.)	0	0	0	0
Public funding / costs	-	0%	0%	0%
Public funding / revenue	-	0%	0%	0%

4.8 The National Rail Infrastructure Company (NRIC)

4.8.1 The National Rail Infrastructure Company (NRIC) is responsible for:

- ensuring the railway infrastructure is used by licensed operators under equal terms and conditions;

- capacity allocation;
- train operation management;
- development of train timetables;
- enhancement, repair, maintenance and operation of the railway infrastructure.

4.8.2 NRIC organises its activities on the basis of research, future-year forecasts and railway infrastructure development programmes in keeping with a long-term agreement concluded between the company and the state. NRIC is a state-owned enterprise under Article 62, Paragraph 3 of the Commerce Law, and was established under Article 9, Paragraph 1 of the Railway Transport Act.

4.8.3 The table below assesses whether NRIC's regulatory accounting processes are compliant with European requirements.

Table 43 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	"…we certify that the consolidated financial statements referred to above present fairly, in all material respects, the financial position and state of affairs of the Group as of 31 December 2007, and the results of its operations, changes in shareholders' equity and cash flows for the year then ended, in conformity with the International Financial Reporting Standards (IFRS), applied in Bulgaria." Angelina Atanasova, Radka Boevska, Maria Vulkanova, Sevdalina Paskaleva, Registered auditors, Sofia June 2008.
Transparency	Good	NRIC's accounts give a high level of disclosure for all its activities.
Visibility of transfers from other rail businesses	Good	There is full clarity regarding the Group's activities with other companies. Equally, the type of relationship it enjoys with other state enterprises is detailed.
Visibility of intra-group transfers	N/A	The sole business in which NRIC is engaged is infrastructure management, and there is only one company.

Table 44 EC Directive 2001/EC/12 company compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	NRIC is a structurally separate company from the railway undertakings in Bulgaria. NRIC's accounts are downloadable online.
6.1(a)	Requirement to publish separated accounts.	Yes	These accounts are published and available on the NRIC

			website.
6.1	‘Public funds paid to one of these two areas of activity may not be transferred to the other.’	Yes	NRIC is a structurally separate company from the railway undertakings.
6.1	‘The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.’	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by NRIC. Please see chapter 29 for further information on the requisite information.
6.2	‘Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.’	Yes	NRIC is a legally separate entity from railway undertakings.
9.4	’In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.’	Yes	NRIC is an infrastructure manager and does not have a freight operating division.
9.4(a)	Requirement to publish separated accounts.	Yes	NRIC is not required to publish separated freight accounts.
9.4	’Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	Yes	NRIC receives no PSO for passenger transport.
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	NRIC receives no PSO for passenger transport.

4.8.4 NRIC is generally compliant with the requirements of the accounting separation directives. However, the exception to this is that the statutory accounting regime is not sufficient to detect the illegal transfer of public funding.

4.8.5 NRIC’s operating and financial performance is shown in the following table. The data shows operating losses in each of 2005 and 2007, as well as net losses of a greater magnitude. The company’s debts have remained reasonably stable while the gearing ratio moved from 10 per cent in 2005 to 40 per cent in 2007. The significant drop in the current ratio (from 0.6 to 0.2) is confirmed by the substantial increase in short term borrowings. Long term borrowing has fallen significantly between 2005 and 2007.

Table 45 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	0	110	0	137
Revenue from infrastructure charges	0	76	0	69
Total subsidisation	0	13	0	0
Wages, Salaries, Social Security Payments	0	52	0	70
Operating costs	0	145	0	172
Operating profit	0	-35	0	-34
Financial expenses	0	7	0	5
P&L on ordinary activities before tax	0	-43	0	-36
Total fixed assets	0	1,144	0	1,098
Long term receivables	0	0	0	0
Total current assets	0	49	0	56
Trade debtors	0	41	0	26
Other debtors	0	0	0	0
Current asset investments	0	0	0	0
Cash at bank and in hand	0	0	0	20
Creditors: <1yr (Current Liabilities)	0	82	0	320
Creditors: >1yr	0	351	0	99
Provisions for liabilities and charges	0	0	0	0
Equity	0	761	0	735
	No. / Km			
Average no. employees	0	0	0	16,660
Passenger-kilometres (m.)	0	0	0	0
Tonne-kilometres (m.)	0	0	0	0
Managed kilometres	0	0	0	0

Table 46: Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	0	110	0	137
Net profit (€m.)	0	-43	0	-36
Operating profit (€m.)	0	-35	0	-34
Total assets (€m.)	0	1,194	0	1,155
Profitability				
Operating profit margin	-	-32%	-	-25%
Net margin	-	-39%	-	-27%
Return on assets	-	-4%	-	-3%
Return on equity	-	-6%	-	-5%
Viability ratio	-	76%	-	80%
Efficiency				
Liabilities / operating costs	-	3.0	-	2.4
Cost per staff member (€ '000)	-	-	-	10
Staff costs as a proportion of operating costs	-	36%	-	41%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€ '000)	-	-	-	-
Indebtedness				
Total debt of the company (€m.)	0	68	0	327
Debt / Total liabilities	-	16%	-	78%
Debt: Equity ratio	-	0.1	-	0.4
Quick ratio	-	0.5	-	0.1
Current ratio	-	0.6	-	0.2
Debt service coverage ratio	-	-4.8	-	-6.4
Public funding				
Total public income (€m.)	0	13	0	0
Public funding / costs	-	9%	-	0%
Public funding / revenue	-	12%	-	0%

4.9 Conclusions

4.9.1 From the data available, we conclude that:

- Bulgaria has not fully implemented the EU directives on accounting separation.
- The infrastructure management (NRIC) and railway operating companies (here BDZ) are indeed quite separate, and have published separated accounts. However, in terms of the directive, what we have seen of the domestic legislation (namely the Railway Act 2006) does not contain an explicit reference to the enactment of separate accounting practices for IMs and RUs.

- BDZ has not fully transposed the requirements for the directives, and the freight division has not produced separate company accounts.
- NRIC appears to be wholly compliant with the requirements of the directives.

5 CZECH REPUBLIC

5.1 Industry overview

5.1.1 The state owned railway undertaking, České Dráhy (ČD), has been nominally separated from the infrastructure manager since 2003 and has had a wholly separate subsidiary responsible for freight transport since December 2007.

5.1.2 Since 2003, Správa železniční dopravní cesty (SŽDC) has been responsible for managing the infrastructure. Until 2007, SŽDC was purely a management company and subcontracted all maintenance and improvement activities back to ČD. However, domestic legislation which came into effect on the 1st June 2008, made SŽDC responsible for the operation, modernisation, maintenance and repairs of the infrastructure. In order to do this, SŽDC took over 10,000 staff from České Dráhy in July 2008.[107]

5.1.3 It is planned that, eventually, České Dráhy 's passenger activities will also be separated and ČD will become a holding company.

5.1.4 Drážní Úřad Drazni urad (DÚ) is the railway specific, independent railway authority responsible for market regulation. Its responsibilities include the investigation of capacity allocation, payment regulation and the amount and structure of infrastructure charges.

5.1.5 The railway undertakings are obliged to provide DÚ 'with documents attesting to the continuance of financial coverage for due rail transport operations' and to provide, upon request proof of financial viability. However, the level of public funding is not monitored.[108]

[107] Human resources in numbers, www.ceskedrahy.cz , March 2009
[108] Correspondence with Drazni Urad, February 2009

5.2 List of Railway Undertakings[109]

Passenger	Freight	Infrastructure Manager
České Dráhy (ČD)* Pus s.r.o. Railtrans s.r.o. Viamont a.s. Connex Česká Železniční s.r.o. Connex Morava a.s.	České Dráhy Cargo (ČD Cargo)* Mostecká uhelná společnost a.s. OKD Doprava, akciová společnost Pus s.r.o Railtrans s.r.o Slezskomoravská dráha a.s. Sokolovská uhelná a.s. Viamont a.s. Unipetrol Doprava a.s. Ostravská dopravní společnost a.s. VÍTKOVICE Doprava a.s. Connex Česká Železniční s.r.o. Connex Morava a.s. Trat'ová Strojni Stanice a.s. IDS a.s. RM Lines a.s. GJW Praha spol s.r.o. ZS Brno DBV – ITL	Správa železniční dopravní cesty (SŽDC)*

*Companies with Czech revenues greater than €50m which will be studied in depth.

5.3 Industry Regulator & Government Departments

- Regulatory Authorities
  - o Drazni urad (DÚ)[110]
- Ministry of Finance
  - o Ministerstvo financi[111]
- Ministry of Transport
  - o Ministerstvo dopravy[112]

5.4 Legal Framework

5.4.1 Act No. 103/2004 Coll, Enacted on 1st May 2004

[109] European Railway agency, www.era.europa.eu
[110] www.du-praha.cz
[111] www.mfcr.cz
[112] www.mdcr.cz

Section 63, Paragraph 4
'If a single natural or legal person is, at the same time, a rail system operator and a rail transport operator, such person shall be obliged to keep separate accounting in the accounting areas respecting the rail transport of passengers, rail transport of goods, and activities financed from public funds in operating the railway infrastructure and executing transport operations. Separate accounting in accounting areas respecting the rail transport of passengers, rail transport of goods, and activities financed from public funds shall also be kept by a rail transport operator who is not, at the same time, a rail system operator. The financial means used to operate public rail transport of passengers and means for rail system operation provided from public funds shall be accounted for separately and may not be transferred to support other activities.'[113]

5.4.2 Act No. 77/2002 on the Transformation of Czech Railways dissolved the existing railway company, and replaced it with separate infrastructure and transport companies.

5.4.3 Act No. 179/2008 amending Acts 77/2002, 266/1994, 77/1997, 83/2003, 179/2003 and 293/2004 enacted on 1st June 2008[114]

Amendment to Section 34h of Act No. 266/1994, Section 10, Paragraphs 1, 2, 3.
'(1) When operating as a joint stock company, Czech Railways must keep separate in-house accounts for activities other than those operating rail passenger services.
(2) In the context of separate internal accounts, Czech Railways shall keep separate accounting for activities funded from public funds under a special legal regulation.
(3) The annual accounts of separate accounts under the headings of paragraphs 1 and 2 shall be subject to audit. The auditor will be determined by the Ministry.

Amendment to Section 21

(1) The state company, Railway Infrastructure Administration (SŽDC), operates the railway infrastructure in the public interest, except for the parts of railway infrastructure under another another infrastructure leasing contract.

Table 47 EC Directive 2001/12/EC compliance

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Partial (i)	'If a single natural or legal person is, at the same time, a rail system operator and a rail transport operator, such person shall be obliged to keep separate accounting in the accounting areas respecting the rail transport of passengers, rail transport of goods, and activities financed from public funds in operating the railway infrastructure and executing transport operations.'
6.1(a)	Requirement to publish separated accounts	No	We did not identify any legislation requiring the publication of separated accounts.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to	Yes	'The financial means used to operate public rail transport of passengers and means for rail

113 EC – Rail transport and interoperability website, http://ec.europa.eu/transport/rail/countries/cz/mne_en.htm, November 2008
114 State Gazette, Issue 57, 28th May 2008, http://www.sagit.cz/pages/sbirkatxt.asp?zdroj=sb08179&cd=76&typ=r

Article	Issue	Transposition	Law
	the other.’		system operation provided from public funds shall be accounted for separately and may not be transferred to support other activities.’
6.1	‘The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.’	Yes (ii)	‘The financial means used to operate public rail transport of passengers and means for rail system operation provided from public funds shall be accounted for separately…’ ‘The annual accounts of separate accounts under the headings of paragraphs 1 and 2 shall be subject to audit. The auditor will be determined by the Ministry.’
6.2	‘Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.’	Yes	‘The state company, Railway Infrastructure Administration (SŽDC), operates the railway infrastructure in the public interest,’
9.4	’In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.’	Partial (iii)	‘Separate accounting in accounting areas respecting the rail transport of passengers, rail transport of goods, and activities financed from public funds shall also be kept by a rail transport operator who is not, at the same time, a rail system operator.’ ‘When operating as a joint stock company, Czech Railways must keep separate in-house accounts for activities other than those operating rail passenger services.’
9.4(a)	Requirement to publish separated accounts	No	We did not identify any legislation requiring the publication of separated freight accounts.
9.4	’Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	Yes	‘The financial means used to operate public rail transport of passengers and means for rail system operation provided from public funds shall be accounted for separately…’ ‘In the context of separate internal accounts, Czech Railways shall keep separate accounting for activities funded from public funds under a special legal regulation.’
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	‘The financial means used to operate public rail transport of passengers and means for rail system operation provided from public funds shall be accounted for separately and may not be transferred to support other activities.’

5.4.4 Notes

(i) This point is complied with but does not specify that it requires profit and loss statements and balance sheets. It also does not say that accounts must be published.

(ii) The legislation asks that these are 'accounted for separately' and that they must be audited separately by an auditor of the Ministry of Transport's choosing..

(iii) This point is complied with but does no specify that it requires profit and loss statements and balance sheets.

5.4.5 In our opinion, the Czech Republic is in compliance with the EC directives on accounting separation. The country has separated its main transport company (ČD) from its infrastructure company (SŽDC) and has asked that the relevant separated accounts be produced and that public funding is separated. There are, however, some slight ambiguities in the legislation:

- Article 6.1 – the domestic legislation does not ask that separate accounts for infrastructure and passenger services are published or that separate profit and loss accounts and balance sheets are to be produced.
- Article 9.4 – the domestic legislation does not ask specify that separate profit and loss accounts and balance sheets are to be produced for freight activities or that they are to be published.

5.5 Sources of Information

5.5.1 Czech laws and regulations:

- Act No. 103/2004 Coll, Enacted on 1st May 2004[115]
- Act No. 77/2002 on the Transformation of Czech Railways[116]
- Act No. 179/2008 amending Acts 77/2002, 266/1994, 77/1997, 83/2003, 179/2003 and 293/2004 enacted on 1st June 2008.[117]

5.5.2 Annual accounts:

- SŽDC Annual Reports (2004 – 2007)
- České Dráhy Consolidated Annual Reports (2004 – 2007)

5.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- Correspondence with Drážní Úřad, February 2009
- Correspondence with České Dráhy , February – March 2009
- České Dráhy's website[118]

5.6 České Dráhy a.s.

[115] http://ec.europa.eu/transport/rail/countries/cz/mne_en.htm
[116] Czech Railway Act 2002 (77/2002), http://ec.europa.eu/transport/rail/legislation/doc/cz-77-2002-en.pdf
[117] State Gazette, Issue 57, 28th May 2008, http://www.sagit.cz/pages/sbirkatxt.asp?zdroj=sb08179&cd=76&typ=r
[118] www.ceskedrahy.cz

5.6.1 ČD was established in 2003 as a result of the Czech legislation 77/2002 Coll as a successor to the fully integrated, state owned organisation (also called České Dráhy). This piece of legislation separated the railway undertakings from the infrastructure manager.

5.6.2 České Dráhy is wholly state owned and provides passenger and freight services to the Czech Republic. Until recently, freight services were supplied through a division of ČD. In 2007, a separate subsidiary (ČD Cargo) was formed in order to carry out freight activities.

5.6.3 As can be seen from Figure 6 and Table 48, ČD generates revenues from a variety of activities through several different subsidiaries.

Figure 6 Structure of ČD

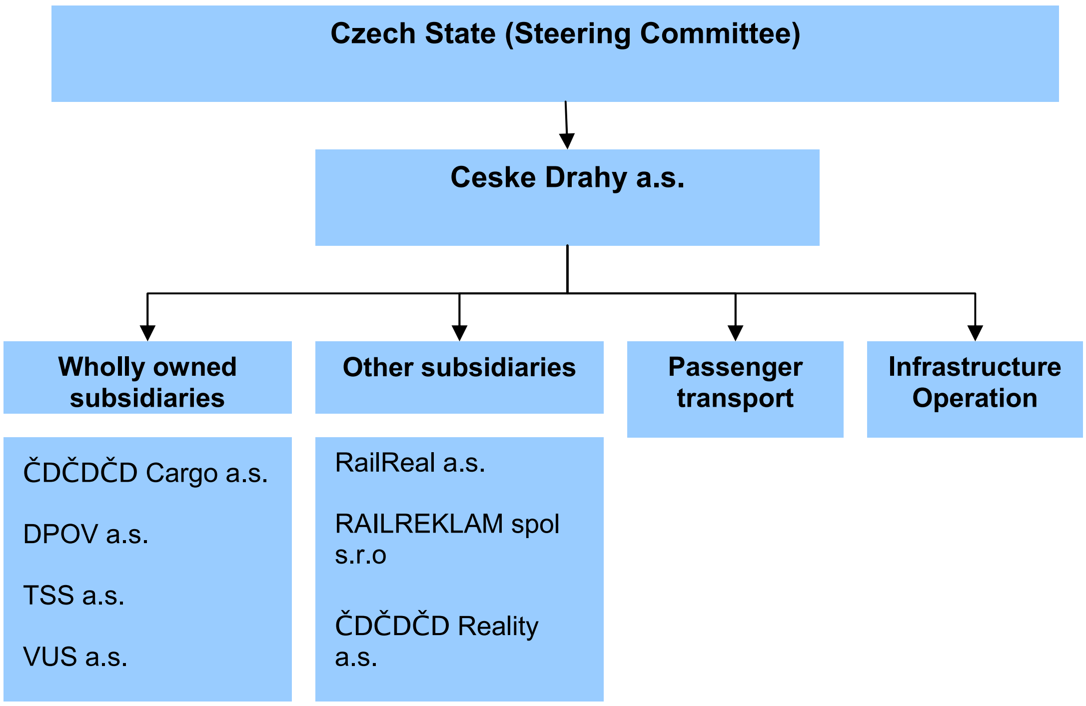


Table 48 Functions of ČD Subsidiaries[119]

Subsidiary	ČD Ownership	Activities
ČD Cargo	100%	Provides freight services (see ČD Cargo section, below.)
ČD Reality	51%	Develops and reconstructs railway stations and the surrounding land.
ČD Telematika	59.31%	Provides telecommunications infrastructure services, customer services and other computer science related services.
ČD Travel	51.72%	Travel agency
Dopravni vzdelavaci insitut (Transport Education Institute)	100%	Specialises in educating and training individuals in the field of transport.
DPOV	100%	Repair, maintenance and modernisation of rolling stock.
RailReal	66%	Architectural and engineering consultancy.
Railreklam	51%	Advertising company – predominantly on railway property.
TSS	100%	Line engineer company involved in maintenance, modernisation and construction of corridors and other ČD lines.
VUZ	100%	Railway research institute specialising in testing and assessment of rail systems and transport.

[119] Ceske Drahy website, www.ceskedrahy.cz, February 2009

5.6.4 Accounting Issues

Table 49 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements give a true and fair view of the financial position of České Dráhy as of 31st December 2007, and of its financial performance and cash flows for the year then ended, in accordance with accounting regulations applicable in the Czech Republic.' Doloitte, 2008
Transparency	Good	There is some detailed breakdown of revenues, performance and costs for the different activities (see Table 55 and Table 56). There is also some breakdown of investments.
Visibility of transfers from/to other rail businesses	Good	Whilst completely separate from ČD, until 2008 SŽDC (the IM) existed purely as a management company and subcontracted its maintenance obligations back to ČD. However, all transactions with SŽDC (track access charges and maintenance fees) were set out clearly in the ČD's annual reports.[120] As of 1st June 2008, SŽDC has undertaken its own maintenance obligations and no longer exists purely as a management company.
Visibility of intergroup transfers	Good	Transactions between ČD's subsidiaries are set out in the annual reports, as is the income generated from them.[121]

Table 50 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	ČD is separate from the infrastructure manager (SŽDC) and thus produces wholly separate accounts, including P&L and balance sheets. Until 2008, SŽDC's infrastructure management functions were outsourced to ČD and the income from these activities is shown in a separate section of the accounts.
6.1(a)	Requirement to publish separated accounts	Yes	These accounts are published and are available for download on the ČD website.
6.1	Prohibition on the transfer of public funds between infrastructure	Yes	We have not encountered any information suggesting that there are

[120] Ibid, p 150
[121] Ibid, p 144 – 147

	manager and rail operator		illegal transfers between SŽDC and ČD.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by ČD. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	ČD and SŽDC are legally separate.
9.4	Separate P&L and balance sheets kept and published for freight operations.	No	In the most recently published ČD accounts (2007) there is no separate P&L or balance sheet for ČD Cargo, the freight division of ČD. We understand that as of 2007 ČD Cargo has become a wholly owned subsidiary of ČD and, therefore, should publish its own separate accounts.
9.4 (a)	Requirement to publish separated accounts	No	The separated freight accounts are not published.
9.4	Funds for PSO transport activities shown separately in accounts	No	Income from state and regional budgets for PSO activities are included in 'Other operating income' in the P&L. The breakdown for this is given in the notes to the accounts. No breakdown is given for the different PSO contracts for which ČD receives funding. State grants and other state financing for acquisition and modernisation of fixed assets are shown as a reduction in the cost of the related assets.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	We have not encountered any evidence suggesting that there are illegal transfers between SŽDC and ČD or from ČD's passenger divisions to ČD Cargo.

5.6.5 In our opinion, the ČD accounts do not fully comply with the relevant points of Directive 2001/12/EC. Specifically;

- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.

- Article 9.4 – There are no separate profit and loss accounts or balance sheets for ČD Cargo in the 2007 accounts. This may be rectified in 2008 as ČD Cargo is now a legally separate subsidiary.
- Article 9.4 – No breakdown of the ČD's different PSO contracts is given in the accounts. Further, the amounts of public funding received for PSO are not mentioned in the P&L and one needs to look at the notes to the accounts to disaggregate 'Other operating income.'

5.6.6 A further point is that state grants and other state financing for acquisition and modernisation of fixed assets are shown as a reduction in the cost of the related assets. Whilst, in this case, this does not directly contravene the directives, this is not a transparent method of showing the amounts of public funding received.

Table 51 Public funding from accounts

Year	2004		2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
PSO	219	PSO	88	PSO	90	PSO	126	PSO
Regional PSO			150	Regional PSO	161	Regional PSO	169	Regional PSO
Investment grants	38	Investment grants	15	Investment grants	21	Investment grants	20	Investment grants
Unspecified	19	'Other subsidies'	24	'Other subsidies'	21	'Other subsidies'	16	'Other subsidies'
Total	275		278		292		331	

Table 52 Public funding from other sources

Year	Amount (€m)	Type	Source	Agreed to accounts
2004	219	PSO	ČD[122]	Yes
	19	Grant	ČD	Yes
2005	239	PSO	ČD	Yes
	24	Grant	ČD	Yes
2006	251	PSO	ČD	Yes
	21	Grant	ČD	Yes
2007	294	PSO	ČD	Yes
	17	Grant	ČD	Yes

5.6.7 The information provided to us by ČD seems to match the data obtained from their accounts. The quantities entitled 'grants' correspond with the unspecified 'other subsidies' figures in the accounts and ČD failed to provide us with figures for investment grants.

[122] Correspondence with ČDČDČD, March 2009

Table 53 Consolidated summary accounts for ČD Group[123]

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	1,429	1,498	1,659	1,740
Revenue from Passenger transport	167	183	209	226
Revenues from Freight transport	561	563	616	641
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	249	270	289	339
Wages, Salaries, Social Security Payments	734	766	784	754
Operating costs	1,450	1,522	1,678	1,734
Operating profit	-21	-24	-19	6
Financial expenses	0	11	15	18
P&L on ordinary activities before tax	-22	-17	-14	2
Total fixed assets	1,273	1,458	1,617	1,936
Long term receivables	0	2	1	0
Total current assets	282	304	365	199
Trade debtors	153	109	132	72
Other debtors	0	2	6	8
Current asset investments	69	0	6	0
Cash at bank and in hand	0	70	78	24
Creditors: <1yr (Current Liabilities)	226	286	366	337
Creditors: >1yr	88	162	243	232
Provisions for liabilities and charges	6	12	14	11
Equity	1,235	1,304	1,360	1,555
	No. / Km			
Average no. employees	73,825	66,411	60,594	56,672
Passenger-kilometres (m)	6,553	6,631	6,887	6,855
Tonne-kilometres (m)	32,149	30,950	32,355	33,404
Managed kilometres	0	0	0	0

Table 54: Financial Ratios from ČD Group Consolidated summary accounts

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	1,429	1,498	1,659	1,740
Net profit (€m)	-22	-17	-14	2
Operating profit (€m)	-21	-24	-19	6
Total assets (€m)	1,554	1,763	1,983	2,135
Profitability				
Operating profit margin	-1%	-2%	-1%	0%
Net margin	-2%	-1%	-1%	0%
Return on assets	-1%	-1%	-1%	0%
Return on equity	-2%	-1%	-1%	0%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	0.2	0.3	0.4	0.3
Cost per staff member (€ '000)	20	23	28	31
Staff costs as a proportion of operating costs	51%	50%	47%	43%
Unit operating costs (€ '000)	221	230	244	253
Total Revenue per Passenger Km (€)	0.22	0.23	0.24	0.25
Total Revenue per Freight Km (€)	0.04	0.05	0.05	0.05
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	310	80	132	100
Debt / Total liabilities	97%	17%	21%	17%
Debt: Equity ratio	0.3	0.1	0.1	0.1
Quick ratio	1.0	0.6	0.6	0.3
Current ratio	1.2	1.1	1.0	0.6
Debt service coverage ratio	-	-2.2	-1.2	0.3
Public funding				
Total public income (€m)	249	270	289	339
Public funding / costs	17%	18%	17%	20%
Public funding / revenue	17%	18%	17%	20%

[123] Ibid

5.6.8 In Table 54 there is a notable difference between the total debt of the company between 2004 and 2005. This is due to a change in the breakdown of the company's liabilities between these two years. In 2004, there was no breakdown of the liabilities, whereas in 2005, bank borrowing and other borrowing were shown separately. Since 'Other borrowing' is not included in our calculations of total debt, the total debt figure in 2005 is significantly different to the amounts in 2004.

Table 55 Summary figures for ČD Passenger services[124]

Indicator	Unit	2005	2006	2007
Transportation of people	Passengers (m)	178.21	180.94	181.92
Sales from passenger traffic	€m	165.90	193.31	208.00
Sales from passenger transport	€m	182.88	208.85	226.15
Other sales from major operations	€m	4.78	5.30	5.45
Expenses on passenger transport	€m	535.19	584.65	629.31
Payment for the use of the infrastructure	€m	49.91	56.44	57.55
Settlement of loss from payables arising from community services	€m	246.68	255.82	297.70
Loss on passenger transport (including its settlements)	€m	- 100.86	- 114.68	- 100.01
Loss on passenger transport (without settlement)	€m	- 347.53	- 370.51	- 397.71
Passenger km	Passenger km (m)	6,631	6,887	6,855
Average transport distance	Km	37.2	38.1	37.7
Income rate per person	€/person	0.93	1.07	1.14
Income rate per passenger km	€/pass km	0.025	0.028	0.030
Train km of passenger transport	Train km ('000s)	113,157	115,523	117,553
- train km electric engines	Train km ('000s)	51,897	54,391	56,402
Number of passengers per train	Passengers/train	58.60	59.62	58.31

[124] Ibid p 27

Table 56 Summary figures for ČD infrastructure maintenance[125]

Indicator	Unit	2005	2006	2007
Income from infrastructure operation	€m	383.99	409.39	413.59
Profit/loss from operation	€m	- 42.81	- 46.48	- 38.50
Length of maintained & operated tracks	Km	9,513	9,496	9,487
- of which electrified	Km	2,997	3,041	3,060
- of which double and multiple track lines	Km	1,868	1,851	1,869
Total length of maintained tracks	Km	16,053	16,049	15,988
Train km (all operators)	Train km (‘000s)	147,634	149,940	153,883
Gross tonne km (all operators)	Gross tonne km (m)	50,068	52,316	54,155
Axle km (all operators)	Axle km (m)	4,175	4,329	4,475
Number of monitored trains		4,820,467	5,004,623	5,014,013
Adherence to the timetable for the monitored trains	%	91.70	87.60	88.0
Time delays of higher quality trains	Min./100 train km	2.30	1.70	2.40

[125] Ibid p 35

Table 57 Summary figures for ČD Cargo[126]

Indicator	Unit	2005	2006	2007
Total freight transport	Tonnes (m)	83.92	89.62	91.62
Sales from freight traffic	€m	14,423	14,982	15,558
Total sales from freight transport	€m	554	609	635
Total income from freight transport	€m	563	616	641
Expenses on freight transport	€m	497	555	591
Payment for the use of the infrastructure	€m	141	154	161
Profit/loss from freight transport	€m	65.54	60.36	49.97
Transport rate per tonne	€ per tonne	5.78	5.90	6.13
Tariff tonne kilometres of ČD Cargo	Ttkm (m)	16,033	16,445	17,051
Transport rate per net km	€ per ttkm	0.032	0.033	0.033
Total ČD Cargo gross tonne km	Gross tkm (m)	30,950	32,355	33,404
- ČD Cargo gross km in electric traction	Gross tkm (m)	28,163	29,410	30,723
Total ČD Cargo train km	Train km (‘000s)	32,553	32,246	33,511
- ČD Cargo train km in electric traction	Train km (‘000s)	26,571	26,492	28,037
Total ČD Cargo train weight	Tonne/train	951	1,003	997
Average transportation distance	Km	191.1	183.5	186.1
Empty running/loaded ratio	%	73.26	71.33	69.17

5.6.9 Notes

5.6.9.1 In Table 55, the distinction between sales from passenger transport and traffic is that sales from passenger traffic include sales relating directly to the transport of passengers and luggage. Apart from the passenger traffic, sales from passenger transport include revenues from associated activities relating to the transportation of people.

5.6.9.2 In Table 56, it appears that only 9.487 km of the 15.988km of tracks maintained are operated.

[126] ČDČDČD Annual Report 2007, p 21

5.6.10 The consolidated data in Table 53 shows that between 17% and 20% of ČD's income is from public funding and that both their total revenues and subsidy income have increased each year between 2004 and 2007. Throughout this period they have made considerable losses.

5.6.11 There are large changes in total debt between 2004 and 2007. This could be due to a variety of factors, not least the fact that our metric does not include debt labelled 'other debt' or trade creditors.

5.6.12 Table 54 shows that the current and quick ratios for ČD have decreased steadily between 2004 and 2007 meaning that they may be struggling to meet their current obligations.

5.6.13 The summary figures in Table 55 and Table 56 show that ČD is making a considerable loss through its infrastructure activities and a large loss through its passenger activities, although a considerable portion of this is offset by public funding.

5.6.14 The figures for ČD Cargo show that the company's freight activities are profit generating, although between 2005 and 2007, these profits have decreased by around 24%. During this period, income from freight activities has increased by 12% but this was offset by a 16% increase in costs.

5.7 SŽDC

5.7.1 SŽDC is the state owned infrastructure manager for the Czech Republic. It has existed since its responsibilities were split from ČD in 2003 and until June 2008 was purely a management company.

5.7.2 The law of the 1st June 2008 transferred 10,000 employees from ČD to SŽDC and, with them, the responsibility of managing, modernising and operating the infrastructure.

5.7.3 Accounting Issues

Table 58 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements give a true and fair view of the financial position of SŽDC as of 31st December 2007, and of its financial performance and its cash flows for the year then ended in accordance with accounting regulations applicable in the Czech Republic.' Milan Novosad, Independent auditor, 2008
Transparency	Good	The accounts show a good level of disclosure with regards to public funding, investment grants and the detail of financial statements.
Visibility of transfers from/to other rail businesses	Good	Since ČD conducts the maintenance and construction obligations of SŽDC, there are significant transfers in both directions in the form of track access charges (from ČD to SŽDC) and, amongst others, maintenance fees (from SŽDC to ČD). These transactions are denoted separately in a table entitled 'Transactions with Cesks Drahy a.s.'[127]
Visibility of intergroup transfers	N/A	SŽDC is a legally separate, state owned infrastructure manager. If one considers the state as a holding company, transactions between SŽDC and its holding company are well documented in the accounts.

Table 59 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	SŽDC is legally separate from ČD and, hence, produces its own accounts.
6.1(a)	Requirement to publish separated accounts	Yes	These accounts are published and are available for download on the SŽDC website.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	We have not encountered any information suggesting that there are illegal transfers between SŽDC and ČD.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by SŽDC. Please see chapter 29 for further information on the requisite information.

[127] Ibid, p 67

6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	ČD and SŽDC are legally separate.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	SŽDC is not active in the freight market.
9.4(a)	Requirement to publish separated accounts	Yes	SŽDC is not required to publish separated freight accounts.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	SŽDC does not receive PSO transport funding.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	SŽDC does not receive PSO transport funding.

5.7.3.1 In our opinon, SŽDC generally complies with the EC directives on accounting separation, however;

- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.

Table 60 Public funding from accounts

Year	2004		2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
Operating subsidies	201	Operating subsidies	202	Operating subsidies	233	Operating subsidies	263	Operating subsidies
Investment grants	348	Investment grants[128]	478	Investment grants	482	Investment grants	594	Investment grants
Other	14	Various[129]	3	Various	4	Various	2	Various
Total	563		683		719		859	

[128] Figures for 'Investment grants' include quantities received from EU funds
[129] Various: e.g. State compensation for flooding, unspecified contributions from municipalities etc

Table 61 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	401	695	707	765
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	194	212	230	240
Total subsidisation	227	234	330	352
Wages, Salaries, Social Security Payments	11	10	12	13
Operating costs	392	527	516	702
Operating profit	9	168	192	63
Financial expenses	57	53	53	52
P&L on ordinary activities before tax	0	151	182	36
Total fixed assets	389	3,124	3,221	3,144
Long term receivables	0	0	0	0
Total current assets	389	231	266	301
Trade debtors	21	38	30	40
Other debtors	237	58	34	54
Current asset investments	58	0	0	0
Cash at bank and in hand	57	86	153	121
Creditors: <1yr (Current Liabilities)	196	263	252	242
Creditors: >1yr	2,011	1,621	1,524	1,399
Provisions for liabilities and charges	0	0	0	0
Equity	1,260	1,472	1,711	1,803
	No. / Km			
Average no. employees	509	561	622	638
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	9,505	9,506	9,492	9,483

Table 62: Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	401	695	707	765
Net profit (€m)	0	151	182	36
Operating profit (€m)	9	168	192	63
Total assets (€m)	777	3,355	3,487	3,445
Profitability				
Operating profit margin	2%	24%	27%	8%
Net margin	0%	22%	26%	5%
Return on assets	0%	4%	5%	1%
Return on equity	0%	10%	11%	2%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	5.6	3.6	3.4	2.3
Cost per staff member (€ '000)	770	939	829	1,101
Staff costs as a proportion of operating costs	3%	2%	2%	2%
Unit operating costs (€ '000)	41	55	54	74
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	0.04	0.07	0.07	0.08
Indebtedness				
Total debt of the company (€m)	2,046	1,681	1,581	1,479
Debt / Total liabilities	93%	89%	89%	90%
Debt: Equity ratio	1.6	1.1	0.9	0.8
Quick ratio	1.9	0.7	0.9	0.9
Current ratio	2.0	0.9	1.1	1.2
Debt service coverage ratio	0.2	3.2	3.6	1.2
Public funding				
Total public income (€m)	227	234	330	352
Public funding / costs	58%	44%	64%	50%
Public funding / revenue	57%	34%	47%	46%

5.7.3.2 This data shows that SŽDC generates large but volatile operating profits, ranging between €191m and €9m. This is due to large changes in operating costs between 2006 and 2007.

5.7.3.3 SŽDC receives large amounts of public funding which covered a large proportion of the company's costs between 2004 and 2007. The public funding figures given only include operating subsidies and funding received from EU funds. Investment grants are not included.

5.7.4 Conclusions

5.7.4.1 From the data available, we have concluded that:

- In the Czech Republic, the majority of the requirements of the directives have been transposed into the national legislation. The notable exception to this is the failure the mention the requirement to publish the separated accounts.
- České Dráhy , in its 2007 accounts, did not publish separated accounts for the freight operating activities of the company. Since then, ČD Cargo has been set up as a separate subsidiary and should, therefore, publish separate company accounts henceforth.
- SŽDC is responsible for both management and maintenance of the infrastructure. Previously, maintenance activities had been undertaken by ČD but, since June 1st 2008, these responsibilities were transferred to SŽDC, along with around 10,000 staff.
- SŽDC appears to be wholly compliant with the requirements of the directives.

6 DENMARK

6.1 List of Railway Undertakings

Passenger	Freight	Infrastructure Manager
DSB* (Danish State Railways) Arriva Danmark HHJ - Odderbanen (Hads-Ning Herreders Jernbane) (see VLTJ Lemvigbanen) HL - Hovedstadens Lokalbaner A/S Lollandsbanen NJ - Nordjyske Jernbaner Vestsjællands Lokalbaner A/S VLTJ - Lemvigbanen (Vemb-Lemvig-Thyborøn Jernbane) (see HHJ Oddebanen) VNJ - Vestbanen (Varde-Nørre Nebel Jernbane)	Railion Danmark A/S*[130] CFL Cargo Danmark NJ - Nordjyske Jernbaner	Banedanmark*

*Companies with Danish revenues greater than €50m which will be studied in depth.

6.2 Industry Regulator & Government Departments

- Regulatory Authorities
  - Railway Inspectorate (Jernbanetilsynet)[131]
- Danish Ministry of Transport
  - Trafikministeriet [132]
- Danish Ministry of Finance
  - Finansministeriet [133]
- Public Transport Authority
  - Trafikstyrelsen[134]

6.3 Legal Framework

The three directives have been transposed into Danish law through the following statutes listed below.

130 Unable to obtain accounts. Now part of DB Schenker, Deutsche Bahn Group
131 www.jernbanetilsynet.dk
132 www.trm.dk
133 www.fm.dk
134 www.trafikstyrelsen.dk

- Act on Railways (with Consolidation Act No 1171 of 2 December 2004, with the changes brought about by Section 59 of Law No 430 of 6 June 2005, Article 66 of Law No 431 of 6 June 2005, Act No. 1422 of 21 December 2005 and Act No. 477 of 30 May 2007) [135].
    - o 'The Transport Minister may, in an accounting regulations lay down detailed rules for the preparation of internal company accounts of railway undertakings and infrastructure managers, including the areas of business to be presented separately accounts.' Chapter 3, § 7
- Act on changes to, respectively, Act on railway operation etc., Act on the independent public company DSB and DSB S-train A/S, Act on Railway Safety etc. and Act on expropriations under the Ministry of Public Works (amends Consolidation Act No 967 of 8 November 2001, as itself amended by Section 2 of Act No. 405 of 6 June 2002) [136].
- Executive Order on the power supply business of Banedanmark (pursuant to Section 2. 2 of Law No 1222 of 27 December 2003) [137].
- Executive Order on the allocation of capacity on railway infrastructure (paths) etc. (Under § 8 f § 9 and § 26 of the Law on the rail company, etc., see Consolidation Act No 310 of 28 April 2003)[138].

Table 63 EC Directive 2001/EC/12 compliance

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure.'	Yes (i)	'The Transport Minister may in accounting regulations lay down detailed rules for the preparation of internal company accounts of railway undertakings and infrastructure managers, including business areas to have separately presented accounts.'[139]
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	No	We did not identify any legislation requiring the publication of separated accounts.
6.1(a)	Requirement to publish separated accounts.	No	We did not identify any legislation requiring the publication of separated accounts.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	'The Transport Minister may in accounting regulations lay down detailed rules for the preparation of internal company accounts of railway undertakings and

[135] https://www.retsinformation.dk/Forms/R0710.aspx?id=115614 The act is a so-called 'consolidated act', i.e. an amalgation and revision of several existing acts, adopted in June 2008. The original Danish Act transposing the three directives was adopted in March 2003.
[136] https://www.retsinformation.dk/Forms/R0710.aspx?id=22192
[137] https://www.retsinformation.dk/Forms/R0710.aspx?id=22310
[138] https://www.retsinformation.dk/Forms/R0710.aspx?id=22264
[139] Chapter 3, Section 7, Railway Act, June 2008 (the so-called 'consolidated act')

			infrastructure managers, including business areas to have separately presented accounts.[140]
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	We did not identify any legislation requiring the publication of separated accounts. However, the word 'may' suggests that this point is not obligatory.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	No	We did not identify any legislation requiring the publication of separated accounts.
9.4(a)	Requirement to publish separated accounts.	No	We did not identify any legislation requiring the publication of separated freight accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	We did not identify any legislation requiring the publication of separated accounts.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	No	We did not identify any legislation requiring the publication of separated accounts.

6.3.1 In our view the relevant directive for accounting separation does not appear to have been fully implemented in Denmark, but the fact that the former incumbent's infrastructure, passenger and freight operations have been structurally separated renders this an academic issue. Nonetheless, we recognise that from a legal perspective, it is not enough for if national law does not specify the precisions, even if accounting separation is implemented in practice.

6.3.2 We understand that it is the responsibility of the transport minister to monitor compliance with the accounting separation requirements.

6.4 Sources of Information

6.4.1 Danish laws and regulations:

- Act on Railways

6.4.2 Annual accounts:

- DSB Annual Reports (2005 – 2007)

[140] Chapter 3, Section 7, Railway Act, June 2008 (the so-called 'consolidated act')

- Banedanmark Annual Reports (2005-2007)

6.4.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- Correspondence with Banedanmark

6.5 Industry overview

6.5.1 In 1997 the railway infrastructure (except local rail networks) was separated from the incumbent vertically structured organisation by forming a separate state-owned enterprise, now known as Banedanmark (originally Banestyrelsen), that operates under the auspices of the Ministry of Transport. Passenger services remain under the DSB Group, a state-owned enterprise, while freight provision was completely devolved from the state operator and sold to a private company, Railion, now DB Schenker.

6.5.2 In 2007, 9 passenger operators and 3 freight operators were granted licenses to operate on the Danish rail network.

6.6 Danish State Railways (DSB Group)

6.6.1 DSB is a railway company that primarily operates railway passenger traffic in Denmark but can also operate as a railway company abroad. In 2001, DSB had almost 156 million passengers. DSB has a history dating back to 1885, but was established as an independent public company in 1999 and today is organised as a corporation consisting of a parent company, with DSB S-tog a/s that operates traffic on the Copenhagen commuter rail network, and other subsidiaries operating in other countries and in other fields. DSB has approximately 8,400 employees.

6.6.2 The freight transport segment of DSB was sold to Railion in 2001 (now DB Schenker), leaving the incumbent solely as a wholly state-owned passenger operating company. However, it also operates passenger services in neighbouring countries through subsidiary companies, and engages in business development overseas (e.g. franchise bidding in the UK).

6.6.3 Apart from rail transport, DSB generates revenues from various activities including, real estate and retail through its station shop operation, and it has stakes (non-controlling) in various ticketing systems.

6.6.4 Accounting Issues

Table 64 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	In our opinion, the Annual Report gives a true and fair view of the Group's and parent company's assets, liabilities and financial position at December 31, 2007 and of the results of the Group's and parent company's operations and consolidated cash flows for the financial year January 1 – December 31, 2007 in accordance with the Danish Financial Statements Act, Danish Accounting Standards and the Act on the Independent Public Corporation DSB and on DSB S-tog A/S. It is also our opinion that the transactions covered by the Annual Report are in accordance with the Transport Contract, legislation and other rules and regulations as well as with current agreements and usual practice. Copenhagen, March 31, 2008 KPMG
Transparency	Partial	The breakdown of costs is generally clearly presented, with a good level of detail. However, there is no explicit visibility of public subsidy payments. Revenue from transport contracts in respect of production obligations is recognised

Issue	Quality	Comment
		as income in the period to which it relates. Therefore PSO activities are not explicitly shown (see 7.8.3.1).
Visibility of transfers from other rail businesses	Good	There is a good level of disclosure regarding the transactions with Banedanmark for track access charges as well as related services: 'Transactions with related parties took place at arm's length, including on a cost allocation basis. The DSB Group was not involved in any other material transactions with related parties in the current financial year.'[141]
Visibility of intra-group transfers	Good	There is good disclosure and transactions are individually listed.[142]

Table 65 Company compliance with EC Directive 2001/EC/12

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure.'	Yes	DSB is a structurally separate company from the infrastructure provider, Banedanmark. Both companies' accounts are downloadable from their respective websites.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	DSB is a structurally separate company from the infrastructure provider, Banedanmark.
6.1(a)	Requirement to publish separated accounts.	Yes	These accounts are published and available for download on the DSB website.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by DSB. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions	Yes	DSB is a legally separate entity from the infrastructure provider,

141 DSB Annual Report 2007, Note 27, p 111
142 DSB Annual Report 2007, Note 28, p 112

	within a single undertaking or that the infrastructure shall be managed by a separate entity.'		Banedanmark.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	DSB is a passenger-only railway undertaking.
9.4(a)	Requirement to publish separated accounts.	Yes	The separated freight accounts are not published as DSB is a passenger-only train operating company.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	Transport contracts from the Ministry of Transport are an important part of DSB's total revenue base[143]. Therefore such costs are listed separately. However, this is a global figure, with no detailed breakdown for each contract given. As stated in the ECORYS report[144], public support for passenger service remains unclear. The 2007 Annual Report mentions two instances in which the Danish Government is accused of extending illegal state subsidies to DSB. These were being investigated by the Commission.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	We have not encountered any evidence suggesting the transfer of public funding has taken place.

6.6.5 Performance

Table 66 Financial Ratios

Financial indicators	**2004**	**2005**	**2006**	**2007**
Metric	**Million Euros**			
Performance				
Revenues	1,327.69	1,388.44	1,405.72	1,405.12
Net profit	127.32	133.30	135.14	114.63
Operating profit	168.06	176.93	184.61	172.89
Total assets	3,007.96	3,273.22	3,304.89	3,322.73
Profitability				
Operating profit margin	0.13	0.13	0.13	0.12
Net margin	0.10	0.10	0.10	0.08
Return on assets	0.04	0.04	0.04	0.03
Return on equity	0.12	0.13	0.13	0.11

[143] DSB Annual Report 2007, pp78 and 94 (Note 1)
[144] ECORYS Report, 2006, p 46

Viability ratio	1.14	1.15	1.15	1.14
Efficiency				
Asset intensity	1.70	1.85	1.85	1.84
Cost per staff member	0.13	0.13	0.13	0.13
Staff costs as a proportion of operating costs	33.0%	33.9%	34.8%	35.8%
Total Revenue per Passenger Km	0.19	0.20	0.20	0.20
Indebtedness				
Total debt of the company	1,752.40	2,011.61	1,988.43	1,978.91
Debt: Equity ratio	1.69	1.96	1.91	1.87
Quick ratio	0.50	0.76	0.54	0.39
Current ratio	0.60	0.89	0.64	0.47
Debt service coverage ratio	3.52	3.51	3.19	2.55
Public funding				
Total public income	935.85	1,007.14	1,061.27	1,038.47
Public funding / costs	0.81	0.83	0.87	0.84
Public funding / revenue	0.70	0.73	0.75	0.74

6.7 Banedanmark

6.7.1 Banedanmark is the infrastructure manager responsible for the national network in Denmark. Its remit covers:

- Maintenance and renewal of the railway network
- Safety systems
- Railway traffic management across the entire railway network
- Construction of timetable and path allocation

6.7.2 Since January 1, 1997 Banedanmark has been an independent infrastructure management company under the Danish Ministry of Transport, completely separated from any train operating company or business. Consequently, there is no need to produce separate regulatory accounts for the infrastructure management business.

6.7.3 Accounting Issues

Table 67 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	‘Based on the audit undertaken “Rigsrevisionen” (State Auditor) has reached the following conclusion: - The accounts are, with exception of the above mentioned limitations, correct implying that there are no major errors and deficiencies. - Established procedures and internal controls are in place to ensure that the transactions covered by the reporting is in accordance with appropriations, laws and regulations and with agreements and customary practices. - “Rigsrevisionen” has through reviewing this audit not become aware of any circumstances that lead to the conclusion that the information about targets and results in the annual report are not documented and

Issue	Quality	Comment
		comprehensive. - "Rigsrevisionen" has through reviewing this audit not become aware of any circumstances that lead to the conclusion that management has not been carried out in an economic way.'
Transparency	Good	Banedanmark's accounts give a high level of disclosure for all its activities. However, there is an issue regarding consistency, as the accounts are not always broken down into the same categories year to year.
Visibility of transfers from other rail businesses	Good	Banedanmark's principal source of income, track access fees are clearly disclosed.
Visibility of intra-group transfers	N/A	Banedanmark only provides infrastructure management services and is an independent company.

Table 68 Company compliance with EC Directive 2001/EC/12

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure.'	Yes	Banedanmark is a structurally separate company from Danish railway undertakings. Its accounts are downloadable online.
6.1(a)	Requirement to publish separated accounts.	Yes	These accounts are published and available for download on the Banedanmark website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	Banedanmark is a structurally separate company from Danish railway undertakings.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by Banedanmark. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide	Yes	Banedanmark is a legally

	that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'		separate entity from the railway undertakings.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	Banedanmark is an infrastructure manager and does not have a freight operating division.
9.4(a)	Requirement to publish separated accounts.	Yes	As an infrastructure manager, Banedanmark is not required to publish separate freight accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	Banedanmark receives no PSO for passenger transport.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	Banedanmark receives no PSO for passenger transport.

6.7.4 Public Funding[145]

Table 69 Public Funding (millions of DKK)

Appropriations	2004	2005	2006	2007	2008 (whole year)
Adminstration	524,4	520,1	527,3	496,6	471,8
Construction	896,7	293,7	467,3	300,6	189,4
Renewal	869,9	999,1	916,3	1154,1	1756,7
Maintenance	647,5	864,1	855,5	1018,3	1058,9
Infrastructure fees	21,8	285,0	307,0	352,5	457,3
Contracting	-11,4	-14,2	82,7	23,0	13,0
Total	2948,9	2947,8	3156,1	3345,1	3947,1

Accounts	2004	2005	2006	2007	2008 (until September 30)
Adminstration	475,8	480,2	487,0	496,6	431,1
Construction	793,4	386,1	364,0	257,6	90,6
Renewal	1005,5	792,6	566,4	1178,3	1149,9
Maintenance	774,4	910,4	943,7	1210,3	781,4
Infrastructure fees	303,0	319,8	351,8	365,2	316,4
Contracting	-27,5	-13,9	47,5	23,0	-10,4
Total	3324,6	2875,2	2760,4	3531,0	2759,0

[145] Correspondence with Banedanmark, January 2009

There are no details of repayment terms for loans (i.e. repayment period, interest rates) as the funding consists of state appropriations. Banedanmark is currently not allowed by law to take up loans.

Infrastructure fees are indeed the same as the infrastructure charges collected by Banedanmark from the TOCs. The fees are considered as 'public funding' because the yearly revenue expected from the charges collected is included in the State Budget allocated to Banedanmark. However, the charges collected are neither a grant nor a revenue. Banedanmark simply collects the charges which are then transferred directly to the Ministry of Finance. The revenue incurred from the charges is not in any way used to fund maintenance and renewal; the funding given to these activities is given separately by the State to Banedanmark[146].

6.7.5 Performance

Table 70 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	518	121	510	543
Revenue from infrastructure charges	85	83	88	88
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	59	130	51	52
Operating costs	59	130	51	157
Operating profit	460	-9	459	385
Financial expenses	0	0	0	0
P&L on ordinary activities before tax	460	-9	459	385
Total fixed assets	0	0	0	0
Long term receivables	0	0	0	0
Total current assets	0	0	0	0
Trade debtors	0	0	0	0
Other debtors	0	0	0	0
Current asset investments	0	0	0	0
Cash at bank and in hand	0	0	0	0
Creditors: <1yr (Current Liabilities)	0	0	0	0
Creditors: >1yr	0	0	0	0
Provisions for liabilities and charges	0	0	0	0
Equity	0	0	0	0
	No. / Km			
Average no. employees	2,654	2,320	2,042	2,060
Passenger-kilometres (m.)	0	0	0	0
Tonne-kilometres (m.)	0	0	0	0
Managed kilometres	2,300	2,300	2,300	2,300

146 Email correspondence with Kenneth Juul Andersen of Banedanmark, May 2009

Table 71 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	518	121	510	543
Net profit (€m.)	460	-9	459	385
Operating profit (€m.)	460	-9	459	385
Total assets (€m.)	0	0	0	0
Profitability				
Operating profit margin	89%	-7%	90%	71%
Net margin	89%	-7%	90%	71%
Return on assets	-	-	-	-
Return on equity	-	-	-	-
Viability ratio	884%	93%	992%	345%
Efficiency				
Liabilities / operating costs	0.0	0.0	0.0	0.0
Cost per staff member (€ '000)	22	56	25	76
Staff costs as a proportion of operating costs	100%	100%	100%	33%
Unit operating costs (€ '000)	25	56	22	68
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€ '000)	0.23	0.05	0.22	0.24
Indebtedness				
Total debt of the company (€m.)	0	0	0	0
Debt / Total liabilities	-	-	-	-
Debt: Equity ratio	-	-	-	-
Quick ratio	-	-	-	-
Current ratio	-	-	-	-
Debt service coverage ratio	-	-	-	-
Public funding				
Total public income (€m.)	0	0	0	0
Public funding / costs	0%	0%	0%	0%
Public funding / revenue	0%	0%	0%	0%

6.8 State Aid

6.8.1 In September 2008 the European Commission announced an inquiry into two public-service contracts concluded between Denmark's Ministry of Transport and the railway company "Danske Statsbaner" in order to determine whether these contracts amount to state aid. The two contracts cover passenger rail services during 2000-04 and 2005-14.

6.8.2 The public service contracts are concluded with the Danish Ministry of Transport without prior public tendering. The two public-service contracts require DSB to meet various obligations in terms of destinations served, the frequency of services and the quality of the rail services provided to passengers. In return, the Danish Government pays compensation every year to DSB for the costs incurred in meeting these obligations. The Commission has a duty to check that what the Government pays is just sufficient to cover these costs. If DSB were to be over-compensated, this would amount to state aid (in line with the Altmark judgment).

6.9 Conclusions

6.9.1 From the information available, we conclude that:

- In Denmark overall, the majority of the requirements of the directives have not been transposed into national legislation.
- At a company level, however, there is greater compliance. DSB and Banedanmark both submit annual accounts which are publically available.
- There is an important distinction, therefore, between law and practice. It seems that the companies are ahead of the national legal framework here.
- Freight services in Denmark are provided by DB Schenker, although we were unable to obtain financial information from them.

7 ESTONIA

7.1 Industry overview

7.1.1 The majority of the Estonian railway network is operated by the state owned railway company, *AS Eesti Raudtee (EVR)*. Out of a total 1,100 km of track, 800 km is operated by *EVR*. 133 km is electrified and the length of double track is 107 km.[147]

7.1.2 After its recent restructuring (a decision that took effect as recently as 14th January 2009), AS Eesti Raudtee became a small holding company (about 60 people) with two 100 per cent owned subsidiaries, one responsible for infrastructure management (AS EVR Infra) and the other for rail freight operations (AS EVR Cargo). The infrastructure company has a share capital of EEK 100 million (approx. € 6.4 million), while the cargo company has a share capital of EEK 10 million (€ 0.64 million).[148]

7.1.3 With the restructuring, 815 EVR staff moved to the infrastructure business and 940 to the cargo business, leaving 60 people working for the holding company.[149] In May 2009, it was announced that the company had made 25 per cent of its staff redundant and that, before the end of 2009, it would have to lay off another 20 per cent (amounting to another 300 people). The company's total staffing is to be reduced to 1,000 in 2010, from a total of 4,000 in 2001.[150]

7.1.4 In 2001, 66 per cent of EVR had been sold to private investors. However, the stock was repurchased by the state in 2007 amidst worries that the whole of Estonia's rail infrastructure would be under foreign ownership.[151] More specifically, network access provided by the private owner was neither transparent nor non-discriminatory. Infrastructure charges had to be negotiated individually, no network statement was made available and the private incumbent was able to exercise grandfather rights.

7.1.5 Edelaraudtree AS is a private company which provides Estonia's long distance passenger transport services under a public service contract. Its subsidiary Edelaraudtree Infrastructuuri manages the remaining 300km of non-electrified rail network in Estonia. There are no double-track sections on this part of the network.

7.1.6 Most other passenger transport services are provided by external railway undertakings. Regional rail passenger transport in the Greater Talinn area is operated by Elektriraudtee, a separate state-owned company. This accounts for about 60 per cent of passenger transport in Estonia. Purely commercial passenger transport is restricted to international transport with Russia.

7.1.7 Other active railway undertakings include:

- *GoRail* – providing a connection between Moscow and Talinn;
- *EVR Ekspress* – international passenger transport with Russia;
- *Coal Terminal Trans* and

[147] AS Eesti Raudtee website http://www.evr.ee and the Official Announcements website on 16.01.2009.
[148] See "Estonia: A division of Estonian Railways takes effect", from *Railway Market: Central and Eastern European Review,* January 2009. Available at http://www.railwaymarket.eu .
[149] See previous footnote.
[150] See "Estonia: Estonian Railways to lay off another 300 people this year", from *Railway Market: Central and Eastern European Review,* May 2009. Available at http://www.railwaymarket.eu .
[151] IBM Global Business Services, Rail Liberalisation Index 2007, p 115

- The Russian companies *Spacecom* and *Westgate Transport* – international freight transport services between Russia and the Estonian seaports on the *EVR*'s network.

7.1.8 While the Estonian railway market has been legally liberalised, purely commercial rail passenger transport has to compete with network-wide passenger services operated under public service contracts. The Railways Act compels AS EVR Cargo to compete on an equal basis with other freight operators for traffic.

7.1.9 Regulatory tasks under Directive 2001/14/EC are carried out by the Estonian Ministry of Economic Affairs and Communication. Its competencies and processes for settling discrimination cases are set out in the 2004 Railways Act. An objection to a decision of the Ministry has a suspensive effect, but the Ministry has an option for coercive measures and the imposition of fines.

7.2 List of Railway Undertakings[152]

Passenger	Freight	Infrastructure Manager
AS Elektriraudtee* (regional Talinn) AS Edelaraudtee* (long distance)	AS EVR Cargo* AS Maardu Raudtee OU Haapsalu Raudtee OU Link Oil Sankt-Peterburgi Eesti filial KS Stivideerimise AS Pakterminal AS AS Railservis AS Harku Karjaar AS Polevkivi Raudtee AS Sillamae SEJ AS Skinest Projekt OU Shipload AS Paldiski Raudtee AS Kunda Trans AS Spacecom OU Transoil AS Sillamae Sadam AS AVR Transservice Westgate Transport OU Russian Estonian Rail Services AS Coal Terminal Trans AS AS Stivis OU Dekoil Eurodek Services OU	AS EVR Infra* Edelaraudtee Infrastruktuuri AS*

*Companies with Estonian revenues greater than €50m which will be studied in depth.

[152] URZD, Licenses for the operation of transport on nationwide or regional railroads granted in 2007, www.urzd.sk

7.3 Industry Regulator & Government Departments

7.3.1 Regulatory Authorities

- Estonian Railway Inspectorate (Raudteeinspektsioon)[153]
- Estonian Competition Board (Konkurentsiamet)[154]

7.3.2 Government departments

- Ministry of Finance (Rahandusministeerium)[155]
- Ministry of Economic Affairs and Communications (Majandus Ja Kommunikatsiooni Ministeerium)[156]

7.3.3 Article 4 (4) of the Estonian Railways Act states:

Railway undertakings specified in subsection (2) of this section [see Legal Framework below] are required to submit the accounting of revenue and expenditure kept according to the requirements set out in subsections (2) and (3) to the Minister of Economic Affairs and Communications. The procedure and terms for submission of the accounting of revenue and expenditure of railway undertakings shall be established by the Minister of Economic Affairs and Communications. In the case of justified interest, information concerning the accounting of revenue and expenditure submitted to the Minister of Economic Affairs and Communications shall be provided pursuant to the procedure provided for in the Public Information Act.

7.3.4 Article 71 (1) of the Act states that:

The Minister of Economic Affairs and Communications, in exercising state supervision and applying enforcement powers of the state on the basis of this Act, is competent to:

7.4 Legal Framework

7.4.1 Estonian Railways Act, passed on 19th November, 2003 and entered into force on 31st March, 2004.[157]

Article 4 – Application of the Act to railway undertakings and separate accounting requirement

1) Railway undertakings which manage public railways or provide public rail transport services are required to keep separate accounting of the revenue and expenditure relating to the areas of management of railway infrastructure and transport services. Rail transport undertakings which provide public rail transport services for passengers in compliance with subsection 9(3) of this Act, and other transport services are required to keep separate accounting of the revenue and expenditure relating to the areas of public rail transport services for passengers and other rail transport services.

2) Aid granted by the state or local government for the management of railway infrastructure or provision of public rail transport services for passengers shall not be transferred from one area of activity to another, or to other areas of activity. Adherence to such requirement shall be reflected in the accounting of the revenue and expenditure of both areas of activity.

[153] Part of Tehnilise Järelevalve Amet (Technical Surveillance Authority), see http://www.tja.ee .
[154] www.konkurentsiamet.ee
[155] www.fin.ee
[156] www.mkm.ee
[157] English translation of the Estonian Railways Act found on "The World Law Guide", available at www.lexadin.nl/wlg. In Estonian, the Act can be found at www.riigiteataja.ee/ert/act.jsp?id=12792904

Article 5 – Transfer of management or railway infrastructure
1) A railway infrastructure manager may transfer the management of a railway infrastructure to another undertaking in part or in full on the basis of a contract. The railway infrastructure manager and the undertaking to which the management of the railway infrastructure is transferred are solitarily liable for any violation of the obligations arising from the management of the railway infrastructure.

Table 72 EC Directive 2001/12/EC transposition

Article	Issue	Transposition	Estonian law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Partial (i)	'Railway undertakings which manage public railways or provide public rail transport services are required to keep separate accounting of the revenue and expenditure relating to the areas of management of railway infrastructure and transport services.'
6.1(a)	Requirement to publish separated accounts	No	We did not identify any legislation relating to the requirement to publish separated accounts.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	'Aid granted by the state or local government for the management of railway infrastructure or provision of public rail transport services for passengers shall not be transferred from one area of activity to another, or to other areas of activity.'
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	'Railway undertakings which manage public railways or provide public rail transport services are required to keep separate accounting of the revenue and expenditure relating to the areas of management of railway infrastructure and transport services.'
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	'A railway infrastructure manager may transfer the management of a railway infrastructure to another undertaking in part or in full on the basis of a contract.'
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the	No	The only legislative distinction is between railway infrastructure and public rail transport services. Until January 2009, AS Eesti Raudtee operated as an integrated infrastructure manager and provider of rail freight

	provision of rail freight transport services.'		services. However, they have now been legally separated.
9.4(a)	Requirement to publish separated accounts	No	We did not identify any legislation relating to the requirement to publish separated freight accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes (ii)	'Aid granted by the state or local government for the management of railway infrastructure or provision of public rail transport services for passengers shall not be transferred from one area of activity to another, or to other areas of activity. Adherence to such requirement shall be reflected in the accounting of the revenue and expenditure of both areas of activity.'
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes (ii)	'Aid granted by the state or local government for the management of railway infrastructure or provision of public rail transport services for passengers shall not be transferred from one area of activity to another, or to other areas of activity. Adherence to such requirement shall be reflected in the accounting of the revenue and expenditure of both areas of activity.'

7.4.2 Notes

(i) There is no reference to separate profit and loss accounts or balance sheets, only references to separate accounting of revenues and expenditures (costs).

(ii) We have taken the reference to "other areas of activity" to mean freight rail services. However, we have also interpreted it as incorporating "other transport services or any other business" from the Directive.

7.4.3 In our opinion, the directives have not been fully transposed into national legislation. Specifically;

- Article 6.1 – There is no mention of the requirement to publish the separated accounts for infrastructure managers and transport operators. The legislation also does not specify that balance sheets and profit and loss accounts are required.
- Article 9.4 – There is no requirement to produce or publish separate accounts for the freight operating divisions of a rail company.

7.4.4 It is unclear who is responsible for monitoring compliance with accounting separation requirements in Estonia.

7.5 Sources of Information

7.5.1 Estonian laws and regulations:

- Railway Act 2004[158]

7.5.2 Annual accounts:

- AS Eesti Raudtee Annual Reports (2005 – 2007)
- Edelaraudtee Annual Reports (2004-2007)
- Elektriraudtee Annual Reports (2004-2007)

7.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- Steer Davies Gleave (2005), "Railimplement: Implementation of EU Directives 2001/12/EC, 2001/13/EC and 2001/14/EC", Italy.

7.6 AS Eesti Raudtee

7.6.1 AS Eesti Raudtee is an integrated incumbent railway operator of Estonia. It was formed in 1992 under state ownership and, in 2001, 66% of this stock was sold to a private sector company Baltic Rail Services (part-owned by Railroad Development Corporation). However, Eesti Raudtee was repurchased by the state in January 2007.

7.6.2 In January 2009, AS Eesti Raudtee was transformed into a small holding company for its legally separate operating subsidiaries. These include:

- AS EVR Infra – the infrastructure manager for the majority of Estonia's rail network (800 km out of a total 1,100 km of network); and
- AS EVR Cargo – provider of freight rail services over AS EVR Infra's network (especially for oil products, oil shale, fertilisers, grain, solid mineral fuel and timber and wood products)[159].

7.6.3 Due to how recently these subsidiaries were formed, there are no separate financial statements available for them. Instead, we have had to rely on the accounts of AS Eesti Raudtee prior to its transformation into a holding company with subsidiaries. These were only available for 2006 and 2007.

7.6.4 By the end of 2007, two competing freight operators (as well as the company's own rail freight arm) and three passenger operators were using the company's infrastructure. The total volume of freight moved on the infrastructure fell from 44.4 million tonnes in 2006 to 36.7 million tonnes in 2007.[160] This was expected to fall further to 26 million tonnes during 2008.

7.6.5 According to the company's 2007 Annual Report, AS Eesti Raudtee's freight operation has been more affected than competing operations, its market share falling to 63 per cent. However, local freight volumes increased by 51 per cent, while export freight increased by 26 per cent.

7.6.6 No evidence of public funding being made available to AS Eesti Raudtee was found in the company's accounts. This was confirmed by the Ministry of Economic Affairs and Communications.

7.6.7 Our review of AS Eesti Raudtee's annual accounts is set out in Table 73 below.

[158] http://www.riigiteataja.ee/ert/act.jsp?id=12792904
[159] EVR website, www.evr.ee
[160] This was due largely to sanctions on transit traffic following the removal of a soviet war memorial.

Table 73 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements present fairly, in all material respects, the financial position of AS Eesti Raudtee as of 31 December 2007, and its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards.' KPMG Baltics AS, March 2008
Transparency	Poor (i)	There is a good level of detail in the 2007 AS Eesti Raudtee accounts, with the revenues generated being broken down by service area. These include 'Infrastructure services', 'Transport services' (the largest) and a range of others. However, there are no separate balance sheets or profit and loss accounts for the various activities in the company's 2007 annual report.
Visibility of transfers from/to other rail businesses	Partial	The company's main revenue sources are "Infrastructure services" and "Transport Services". We assume that revenues under the former heading include track access charges, while revenues under the latter include the company's freight rail operations. However, no further details about revenues from "Infrastructure services" are provided.
Visibility of intra-group transfers	Partial	Details of the values of transactions (sales and expenses / asset investments) and of receivables and liabilities with: (i) companies controlled by the Supervisory and Management Board members; (ii) state enterprises and companies with state participation; and (iii) subsidiaries. However, no further details about these flows are provided.

(i) Note that, before January 2009, AS Eesti Raudtee was an integrated infrastructure and rail freight transport services provider. The company would be expected to become compliant in its reporting for financial year 2009.

7.6.8 In Table 74 below, we assess AS Eesti Raudtee's compliance with the requirements of Directive 2001/12/EC.

Table 74 AS Eesti Raudtee's compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	No	The infrastructure and cargo divisions of AS Eesti Raudtee have only been legally separated (as subsidiaries) since January 2009.
6.1(a)	Requirement to publish separated acccounts	No	AS Eesti Raudtee did not publish separated accounts in 2007.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	No evidence of public funding being made available to AS Eesti Raudtee from the company's accounts.
6.1	Accounts kept in a way which	No	Very detailed information would be required for accounts to be

Article	Issue	Compliance	Comment
	reflects this prohibition		kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by AS Eesti Raudtee. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	But only since January 2009, when legally separated subsidiaries for each of infrastructure management and freight rail services were established.
9.4	Separate P&L and balance sheets kept and published for freight operations.	No	But expected for financial year 2009.
9.4(a)	Requirement to publish separated acccounts	No	AS Eesti Raudtee did not publish separated accounts in 2007.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	AS Eesti Raudtee does not provide passenger services and, hence, receives no PSO transport funding.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	AS Eesti Raudtee does not provide passenger services and, hence, receives no PSO transport funding.

7.6.9 In our opinion, the AS Eesti Raudtee is not in full compliance with the requirements on railway accounting separation. Specifically;

- Article 6.1 – Freight and infrastructure divisions did not provide separate accounts in 2007.
- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.
- Article 6.1 – AS Eesti Raudtee does not keep its accounts in a way which reflects the prohibition on the transfer of public funds.
- Article 9.4 - Freight and infrastructure divisions did not provide separate accounts in 2007.

7.6.10 The company publishes its annual reports on its website however, in 2007, published no separated accounts.

7.6.11 EVR's operating and financial performance is shown in Table 75 below. The company appears to be profitable with a 15 per cent operating margin in 2007 and a net profit rate of 11.5 per cent before tax.

7.6.12 However, operating and net profitability have been in decline since 2005. While revenues from infrastructure charges have been increasing, the rail freight business (the largest source of the company's revenues) has been in significant decline.

Table 75: Operating and financial performance of AS Eesti Raudtee

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	0	117	125	116
Revenue from Passenger transport	0	0	90	72
Revenues from Freight transport	0	112	90	72
Revenue from infrastructure charges	0	0	16	23
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	0	25	28	31
Operating costs	0	91	106	98
Operating profit	0	26	19	18
Financial expenses	0	4	4	5
P&L on ordinary activities before tax	0	22	16	13
Total fixed assets	0	183	198	223
Long term receivables	0	0	0	0
Total current assets	0	32	34	33
Trade debtors	0	11	11	16
Other debtors	0	1	4	3
Current asset investments	0	0	0	0
Cash at bank and in hand	0	5	7	4
Creditors: <1yr (Current Liabilities)	0	36	36	46
Creditors: >1yr	0	70	70	88
Provisions for liabilities and charges	0	0	0	1
Equity	0	109	126	122
	No. / Km			
Average no. employees	2,592	2,460	2,342	2,279
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

7.6.13 A set of financial ratios for AS Eesti Raudtee is presented in Table 76 below.

Table 76: Financial ratios for AS Eesti Raudtee

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	0	117	125	116
Net profit (€m)	0	22	16	13
Operating profit (€m)	0	26	19	18
Total assets (€m)	0	216	232	256
Profitability				
Operating profit margin	-	22%	15%	15%
Net margin	-	19%	13%	11%
Return on assets	-	10%	7%	5%
Return on equity	-	20%	13%	11%
Viability ratio	-	1	1	1
Efficiency				
Liabilities / operating costs	-	1.2	1.0	1.4
Cost per staff member (€ '000)	0	37	45	43
Staff costs as a proportion of operating costs	-	28%	27%	31%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	0	83	78	110
Debt / Total liabilities	-	78%	74%	82%
Debt: Equity ratio	-	0.8	0.6	0.9
Quick ratio	-	0.5	0.6	0.5
Current ratio	-	0.9	0.9	0.7
Debt service coverage ratio	-	7.3	4.2	3.5
Public funding				
Total public income (€m)	0	0	0	0
Public funding / costs	-	0%	0%	0%
Public funding / revenue	-	0%	0%	0%

7.7 AS Elektriraudtee

7.7.1 AS Elektriraudtee was established in 1997, first as a subsidiary of AS Eesti Raudtee. However, before the privatisation of AS Eesti Raudtee, 100 per cent of the shares in AS Elektriraudtee were moved from AS Eesti Raudtee to the Estonian State.

7.7.2 The company provides rail passenger services in Tallinn and Harju County (accounting for about 60% of rail passenger transport in Estonia), operating trains on the electrified part of AS Eesti Raudtee's network. It has a licence for the sole passenger operator on this part of the network until 2015.

7.7.3 The number of train kilometres made by AS Elektriraudtee increased from 1.2 million in 2006 to 1.26 million in 2007 (an increase of 5 per cent). 3.34 million passenger trips were made in 2007, up 2 per cent on 2006.

7.7.4 Service was provided at an estimated cost of EEK 69.28 / km (€4.43) in 2007, up from EEK 64.08 / km (€4.10) in 2006. The company's website reports that, in 2007, state funding amounted to EEK 35.48 / km (or 51.2 per cent of the company's total cost per km travelled). This was down from EEK 36.73 / km in 2006 (or 57.3 per cent of the company's total cost per km travelled).

7.7.5 The state funding received by AS Elektriraudtee is presented as annual euro-denominated totals in Table 77 below.

Table 77 Public funding from AS Elektriraudtee's annual report

Year	2006	2007
PSO	€2.81 m	€2.86 m
Other	-	€0.035 m *

* Fixed assets from the state and ERDF

7.7.6 Our review of AS Elektriraudtee's annual accounts is set out in the table below.

Table 78 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements present fairly, in all material respects, the financial position of the company as of 31st December 2007, and its financial performance and its cash flows for the year then ended in accordance with Estonian good accounting practice.' BDO Eesti AS, March 2008
Transparency	Good	AS Elektriraudtee's accounts provide adequate breakdowns of revenues, costs, subsidies and their uses. There are detailed accounts of the types, amounts and uses of funding received from the state and from the EU. This includes loans, grants and capital, including investment and operational subsidies. [161]
Visibility of transfers from/to other rail businesses	Partial	Aggregated figures for costs and revenues relating to rent and fees from/to other companies are given in the accounts.[162] However, no further details are provided.
Visibility of intra-group transfers	Not applicable	AS Elektriraudtee is a structurally separate provider of passenger rail transport services. Intra-group transfers should not, therefore, be an issue.

7.7.7 We assess AS Elektriraudtee's compliance with the requirements of Directive 2001/12/EC in Table 79 below.

Table 79: AS Elektriraudtee's compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	AS Elektriraudtee is a structurally separate railway undertaking and, as such, produces its own separate profit and loss accounts and balance sheets.
6.1(a)	Requirement to publish separated accounts	Yes	AS Elektriraudtee accounts are available for download from the company website.

[161] Eliktraraudtee AS Annual Report 2007, pp 24 – 25
[162] Ibid, p 28

Article	Issue	Compliance	Comment
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	Other than the flows relating to rents and fees (Table 78 above), there was no evidence of public funds being transferred between the infrastructure manager and a rail operator.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by AS Elektriraudtee. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	AS Elektriraudtee is a structurally separate company, albeit also owned by the Estonian State.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	AS Elektriraudtee is not involved in the rail freight business.
9.4(a)	Requirement to publish separated accounts	Yes	AS Elektriraudtee is not required to publish separate freight accounts.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	No further detail about the number and / or structure of PSO contracts was provided.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	No evidence.

7.7.8 In our opinion AS Elektriraudtee is in compliance with the requirements of the EC directives. However,

- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.

7.7.9 The operating and financial performance of AS Elektriraudtee is shown in Table 80 below.

Table 80 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric		**Million Euros**		
Total revenue	5	5	5	6
Revenue from Passenger transport	1	2	2	2
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	3	3
Wages, Salaries, Social Security Payments	2	2	2	2
Operating costs	5	4	5	6
Operating profit	0	1	0	0
Financial expenses	0	0	0	0
P&L on ordinary activities before tax	0	1	0	0
Total fixed assets	5	5	6	8
Long term receivables	0	0	0	0
Total current assets	1	1	1	0
Trade debtors	0	0	0	0
Other debtors	0	0	0	0
Current asset investments	0	0	0	0
Cash at bank and in hand	1	1	0	0
Creditors: <1yr (Current Liabilities)	1	1	1	2
Creditors: >1yr	3	3	2	3
Provisions for liabilities and charges	0	0	0	0
Equity	2	3	3	3
		No. / Km		
Average no. employees	0	0	157	174
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

7.7.10 Having been profitable on a pre-tax basis, the company made a loss of €0.27 million in 2007. However, in 2006 and 2007, over 50 per cent of the company's income came from public funding. A set of financial ratios for the company is presented in Table 81 below.

Table 81 Financial ratios for AS Elektriraudtee

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	5	5	5	6
Net profit (€m)	0	1	0	0
Operating profit (€m)	0	1	0	0
Total assets (€m)	6	6	7	8
Profitability				
Operating profit margin	5%	13%	8%	-5%
Net margin	6%	13%	8%	-5%
Return on assets	5%	10%	6%	-3%
Return on equity	15%	25%	14%	-10%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	0.8	0.8	0.8	0.9
Cost per staff member (€ '000)	-	-	30	33
Staff costs as a proportion of operating costs	33%	35%	37%	38%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	4	3	3	4
Debt / Total liabilities	94%	81%	79%	83%
Debt: Equity ratio	1.8	1.2	0.9	1.5
Quick ratio	0.5	1.1	0.3	0.0
Current ratio	0.9	1.3	0.6	0.2
Debt service coverage ratio	406.0	194.5	-	-10.5
Public funding				
Total public income (€m)	0	0	3	3
Public funding / costs	0%	0%	59%	50%
Public funding / revenue	0%	0%	54%	52%

7.8 AS Edelaraudtee

7.8.1 AS Edelaraudtee is an integrated company that was founded in 1997. It provides most of Estonia's long distance passenger transport under a public service contract and manages around 300km of the national rail network. It also provides rail freight services. The company is well known in Estonia for its sole use of diesel trains.

7.8.2 In 2001 AS Edelaraudtee Infrastruktuuri was founded as a separate subsidiary to Edelaraudtee AS in compliance with the European directive 2001/12/EC. Edelaraudtee AS established a partnership with GB Railways when the former was privatised in 2000. However, AS GB Railways Eesti and AS Edelaraudtee signed a merger agreement on 28 May 2008 and produced a joint annual report for 2007 under AS GB Railways Eesti.

7.8.3 The public funding that has been made available to AS Edelaraudtee under PSO for passenger rail operations is shown in Table 82 below.

Table 82: Public funding for AS Edelaraudtee under PSO

Year	Amount of public funding under PSO
2004	€8,564,161
2005	€8,768,678
2006	€9,714,571
2007	€10,583,769
2008	€11,382,503

Source: Estonian Ministry of Economic Affairs and Communications

7.8.4 The Estonian Ministry of Economic Affairs and Communications confirmed that no public funding is being made available to AS Edelaraudtee Infrastruktuuri.

7.8.5 As they do not appear to be published, we were only able to obtain the accounts for AS Edelaraudtee Infrastruktuuri and our review of these is shown in Table 83 below.

Table 83 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements present fairly, in all material respects, the financial position of the company as of 31st December 2007, and its financial performance and its cash flows for the year then ended in accordance with Estonian good accounting practices.' Rimess, August 2008
Transparency	Poor	Edelaraudtee gives a low level of detail in its accounts. For example, there is no separation of freight and passenger income. While there is a list of transfers to and from related parties, including subsidiaries, there is no meaningful breakdown of costs and revenues.
Visibility of transfers from/to other rail businesses	Partial	There is little mention of funds from other businesses and no detail is presented relating to this. The only business where the aggregate sum of transfers is given is one called OU Moonrider Group. It is not clear what this company's function is but we do know that it's owned by the parent company GB Railways Eesti AS.
Visibility of intra-group transfers	Partial	The 2007 accounts show the aggregated sum of transactions with Edelaraudtee's subsidiaries and its parent company. The purpose of these funds is not disclosed.

7.8.6 We assess AS Edelaraudtee compliance with the requirements of Directive 2001/12/EC in the table below. However, it should be noted that the only accounts we were able to obtain were those for AS Edelaraudteen Infrastruktuuri.

Table 84 AS Edelaraudtee's compliance with Directive 2001/12/EC

Article	Issue	Compliance	Estonian law
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	The infrastructure division of Edelaraudtee is separated from the rest of the company's functions.
6.1(a)	Requirement to publish separated accounts	No	We were able to locate the AS Edelaraudtee Infrastruktuuri accounts from the Estonian

Article	Issue	Compliance	Estonian law
			companies' registrar but they do not appear to be published on the company website.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	There is no mention of public funding in the company's annual reports. This is despite the fact that Edelaraudtee receives PSO compensation for operating passenger services. However, we were only able to find figures for 2008 and 2009 from the website of the Ministry of Economic Affairs and Communications.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by Edelaraudtee. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	The infrastructure division of Edelaraudtee is established as a legally separate subsidiary of the parent company.
9.4	Separate P&L and balance sheets kept and published for freight operations.	No	We did not obtain separated accounts for AS Edelaraudtee. We were only able to obtain accounts for AS Edelaraudtee Infrastruktuuri which only provides IM services.
9.4(a)	Requirement to publish separated accounts	No	The separated accounts are not published and are not available for download from the company website.
9.4	Funds for PSO transport activities shown separately in accounts	No	AS Edelaraudtee receives PSO compensation for operating passenger services. However, we were only able to find figures for 2008 and 2009 from the website of the Ministry of Economic Affairs and Communications, not in the accounts of the company.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	We were unable to locate any evidence suggesting PSO funds for passenger services are being transferred between the company's subsidiaries. However, as we were unable to locate accounts for passenger and freight services, we are

Article	Issue	Compliance	Estonian law
			unable to draw definitive conclusions.

7.8.7 In our opinion, AS Edelaraudtee does not comply with the requirements of the EC directives. The extent of this non compliance is ambiguous as we were unable to locate all the accounts for the different activities of the company. However, since these accounts do not appear to be published, this, in itself, can be considered non compliance.

Table 85 Operating and financial performance of AS Edelaraudtee Infrastruktuuri

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	5	6	6	5
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	5	5	5	5
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	1	1	2	1
Operating costs	3	4	4	5
Operating profit	2	2	2	0
Financial expenses	0	0	0	0
P&L on ordinary activities before tax	2	2	2	0
Total fixed assets	4	6	7	9
Long term receivables	2	1	0	0
Total current assets	4	5	8	1
Trade debtors	0	0	0	0
Other debtors	3	5	7	1
Current asset investments	0	0	0	0
Cash at bank and in hand	0	0	0	0
Creditors: <1yr (Current Liabilities)	1	1	0	1
Creditors: >1yr	1	0	0	0
Provisions for liabilities and charges	0	0	0	0
Equity	10	12	14	10
	No. / Km			
Average no. employees	0	0	0	0
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	300	300	300	300

7.8.8 The annual accounts of AS GB Railways Eesti, which we understand incorporates AS Edelaraudtee, show total revenues of less than €3 million in 2007. Therefore, we have not produced dashboard showing the operating and financial performance of the company.

7.8.9 However, we have produced dashboards for AS Edelaraudtee's infrastructure subsidiary, AS Edelaraudtee Infrastruktuuri. This was formed in 2001 and is 100 per cent owned by the parent company. The company manages about 300 km of track on routes such as Tallinn-Viljandi and Lelle-Pamu Moiakula.

7.8.10 Table 85 and shows that the company appears profitable in operating and net terms. However, margins seem to have fallen quite substantially between 2006 and 2007.

7.8.11 Debts and gearing are low with, consequently, healthy current and quick ratios.

Table 86 Financial ratios for AS Edelaraudtee Infrastruktuuri

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	5	6	6	5
Net profit (€m)	2	2	2	0
Operating profit (€m)	2	2	2	0
Total assets (€m)	9	13	14	10
Profitability				
Operating profit margin	32%	35%	31%	6%
Net margin	31%	32%	31%	7%
Return on assets	19%	14%	14%	3%
Return on equity	16%	15%	14%	4%
Viability ratio	1	2	1	1
Efficiency				
Liabilities / operating costs	0.4	0.3	0.1	0.1
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	37%	40%	36%	25%
Unit operating costs (€ '000)	12	12	14	17
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	0.02	0.02	0.02	0.02
Indebtedness				
Total debt of the company (€m)	1	1	0	0
Debt / Total liabilities	78%	66%	48%	21%
Debt: Equity ratio	0.1	0.1	0.0	0.0
Quick ratio	4.8	6.6	15.5	2.1
Current ratio	5.2	7.0	16.1	2.3
Debt service coverage ratio	28.1	12.1	72.7	26.7
Public funding				
Total public income (€m)	0	0	0	0
Public funding / costs	0%	0%	0%	0%
Public funding / revenue	0%	0%	0%	0%

7.9 Conclusions

7.9.1 Based on the information available, we can conclude the following:

- The national legislation transposes many of the points of the directives. However, we were unable to locate any legislation referring to the requirement of rail companies to produce and publish separate accounts for freight operating activities. Further, there is no mention of the requirement to publish the separated infrastructure and transport company accounts.
- In 2007, AS Eesti Raudtee did not fully comply with the requirements of the railway accounting separation directives. Specifically, freight and infrastructure divisions did not provide separate accounts and they were not kept in a way which reflected the prohibition on the transfer of public funds. In January 2009, however, the company became a holding company with separate subsidiaries for infrastructure and freight activities. Therefore, one would expect the company to publish separate infrastructure and freight accounts in 2009.

- Elektriraudtee appears to comply with the requirements of the accounting separation directives.
- It is not clear whether SA Edelaraudtee complies with all the directives on accounting separation as we only managed to obtain the accounts for the infrastructure division. However, the fact that the accounts aren't published means that the company is not wholly compliant.

8 FINLAND

8.1 List of Railway Undertakings

Passenger	Freight	Infrastructure Manager
VR Group* (Finnish Railways)	VR Group* (Finnish Railways)	RHK (The Finnish Rail Administration)*

*Companies with Finnish revenues greater than €50m which will be studied in depth.

8.2 Industry Regulator & Government Departments

- Regulatory Authorities
  - Finnish Rail Agency [163]
- Ministry of Transport and Communications Finland[164]
  - Liikenne-ja Viestintäministeriö
- Ministry of Finance[165]
  - Valtiovarainministeriö

8.3 Legal Framework

8.3.1 Railway Act 2006. The most relevant paragraph relating to accounting separation is 'Section 62, Accounts of Railway Undertakings', This is given as follows:

'Railway undertakings shall in their accounts observe the relevant provisions valid in the European Community and Finland. Furthermore, the undertakings shall prepare a calculation of the profitability of freight traffic, as well as an annual summary of the quantity and value of their production assets and of the financial obligations connected with them. This summary shall be published. The receipts from passenger services purchased as public services shall be entered into a separate account and may not be used to cover the costs of other business operations.'

Table 87 EC Directive 2001/EC/12 compliance

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes (i)	'Railway undertakings shall in their accounts observe the relevant provisions valid in the European Community and Finland. Furthermore, the undertakings shall prepare a calculation of the profitability of freight traffic, as well as an annual summary of the quantity and value of their production assets and of the financial

163 www.rautatievirasto.fi/en/finnish_rail_agency/tasks
164 www.lvm.fi/web/en/home
165 www.ministryoffinance.fi/vm/en/01_main/

			obligations connected with them. This summary shall be published.'[166] VR Group and RHK publish accounts.
6.1(a)	Requirement to publish separated accounts	No	'Railway undertakings shall in their accounts observe the relevant provisions valid in the European Community and Finland'. By default, this must imply the relevant EC requirements. However, there is no specific reference to this requirement.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	'Receipts from passenger services purchased as public services shall be entered into a separate account and may not be used to cover the costs of other business operations.'[167]
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No (ii)	There is no explicit statement to this effect. However, a distinction may be discerned between '…the railway network [that] shall be maintained and constructed within the framework of appropriations allocated in the State budget and other funding'[168]
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	'Railway network shall mean the state-owned railway network managed by the Finnish Rail Administration.'[169]
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	The transposing legislation states: '[Freight companies] shall prepare a calculation of the profitability of freight traffic, as well as an annual summary of the quantity and values of their production equipment and of the financial responsibilities connected with it.'
9.4(a)	Requirement to publish separated accounts	No	We did not identify a requirement to publish the separated accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant	Yes	'Receipts from passenger services purchased as public services shall be entered into a separate account…'[170]

[166] Section 62, The Railway Act, June 29, 2006
[167] Section 62, The Railway Act, June 29, 2006
[168] Section 3, The Railway Act, June 29, 2006
[169] Section 2, The Railway Act, June 29, 2006
[170] Section 62, The Railway Act, June 29, 2006

	accounts…’		
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	‘…and may not be used to cover the costs of other business operations.’[171]

8.3.2 Notes

(i) Legislation does not specifically mention separate profit and loss accounts and balance sheets, only stating that accounts should ‘observe the relevant provisions valid in the European Union and Finland’. There is a clearly stated obligation for accounts by railway undertakings, but not for the IM.

(ii) This does not specifically relate to a distinction between IM and RU, rather one between publicly and commercially provided services. However, it is ambiguous.

8.3.3 The purpose of Regulation 198/2003 (Railway Act) is to promote the growth in railway services and the use of the railway network in Finland, as well as to improve safety on the railways. It contains provisions on the operation and safety on the state-owned railway network, and on its use and funding. The act also applies to privately owned sidings.

8.3.4 In our view Finland has not fully implemented the EU directives on accounting separation according to the absolute letter. Rather it seems that a working understanding of the spirit of the separation has developed in that infrastrucutre management and railway undertakings are separate anyway without any legislation requiring them to be so.

In particular:

- Article 6.1 – the domestic legislation does not reflect the prohibition on the transfer of public funds specifically
- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.
- Article 6.1 – there is no mention in the domestic legislation of showing all public funding separately in the accounts in order to reflect the prohibition on its transfer.

8.3.5 We underestand that the Finnish Rail Agency is responsible for monitoring compliance with accounting separation requirements.

8.4 Sources of Information

- Finnish laws and regulations:

Regulation 198/2003 (Railway Act)

8.4.1 Annual accounts:

- VR Group Annual Reports (2005 – 2007)[172]
- RHK (Finnish Rail Administration) Annual Reports (2005-2007) Ratahallintokeskus [173]

[171] Section 62, The Railway Act, June 29, 2006
[172] www.vrgroup.fi
[173] www.rhk.fi/in_english/

8.4.2 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- Correspondence with RHK, February 2009

8.5 Industry overview

8.5.1 Since 1995, there have been separate organisational structures for railway infrastructure and operations in Finland, after the incumbent vertically integrated organisation, Valtionrautatiet, was split into two. This company, now known as VR Group, or VR-Yhtymä Oy, is now solely responsible for all passenger and freight operations, and infrastructure operation and maintenance is the preserve of Ratahallintokeskus (RHK), the Finnish Rail Administration. Both groups remain state owned.

8.5.2 The Finnish Rail Agency was established in September 2006[174] as a regulatory and supervisory body, and is responsible for the safety of the Finnish railway system. The Finnish Rail Agency stands alone but is part of the Ministry of Transport. It is responsible for managing railway safety, granting safety permits and licenses for transport and infrastructure, and ensuring compliance with interoperability requirements and EU norms. It also issues rules and regulations. The complete scope of its authority is unclear, but extends to fines:

> 'The Railway Agency and the Rail Administration may reinforce the fulfilment of an obligation or the observance of a prohibition laid down under this Act by conditional fines, a compulsory order or a threat of interruption, as provided in the Act on Conditional Fines (1113/1990)'[175]

8.5.3 In Finland, national freight transport was opened to competition in the beginning of 2007. An undertaking that wishes to provide goods transport services on the Finnish railways must apply for an operating licence from the Ministry of Transport and Communications.

8.5.4 Finland's railway infrastructure is the responsibility of the Finnish Rail Administration, which operates under the Ministry of Transport and Communications. The number of employees at Rail Administration is around 100.

8.5.5 In 2009, only one organisation, VR Group, had a licence to operate on the Finnish rail network, providing both passenger and freight operations.

8.6 VR Group

8.6.1 VR Group is the state-owned passenger and freight railway undertaking. Until 1995, the company was fully integrated (called Valtionrautatiet), providing passenger, freight and infrastructure manager services.

8.6.2 As a result of the demerger the VR Group retained responsibility for railway operations. This includes passenger and freight services – both domestic and international – the latter being in the hands of VR Cargo.

8.6.3 Other companies in the VR group also provide road freight and bus services, carry out catering activities and real estate management, and provide data, technological, and telecommunications services for the transport and logistics sectors. The group owns a bus company, Pohjolan Liikenne, and a road freight

[174] This therefore confirms expectations in the IBM report 'Rail Regulation in Europe' of March 2006 (p 35) which states that a regulatory body was to be set up.
[175] Section 64, The Railway Act, June 29, 2006

haulage company, Transpoint. An important subsidiary is VR-Track Ltd which undertakes just over half of the track work required by RHK.

8.6.4 Altogether the group of companies includes 21 companies employing a total of about 14,400 persons.

8.6.5 Net turnover for 2007 as €1.3bn, with passenger and freight operations accounting for similar amounts (€370m and €340m respectively). Income from passenger operations is on the increase, whereas freight income declined from the previous year.

Table 88 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements and Board report have been prepared in accordance with the Accounting Act and other rules and regulations governing the preparation of financial statements and Board reports in Finland. The financial statements and Board report give a true and fair view, as defined in the Accounting Act, of both the consolidated and the parent company's result of operations and financial position. The Board report is consistent with the financial statements. The financial statements with the consolidated financial statements can be adopted and the members of the Supervisory Board and Board of Directors of the parent company and the CEO can be discharged from liability for the accounting period examined by us. The proposal of the Board of Directors regarding the distribution of retained earnings is in compliance with the Companies Act. Helsinki, 25 March 2008 KPMG Oy Ab Authorized Public Accountants Jorma Nurkkala, APA, Lasse Holopainen, APA Chartered Public Finance Auditor'
Transparency	Partial	There is a good level of detail in the accounts relating to railway issues such as track infrastructure charges and loans.
Visibility of transfers from other rail businesses	Good	There is a good level of disclosure regarding the transactions with RHK for track access charges and related services.
Visibility of intra-group transfers	Partial	Group companies are listed, but intra-group transfers are not explicitly detailed, and only limited information is given on principal group companies.

Table 89 Company compliance with EC Directive 2001/EC/12

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and	Yes	VR Group is a structurally separate company from the infrastructure manager, RHK. Both companies' accounts are

	published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure.'		downloadable from their respective websites.
6.1(a)	Requirement to publish separated accounts	Yes	These accounts are published and available for download on the VR Group website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	VR Group is a structurally separate company from the infrastructure provider, RHK.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by VR Group. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	VR Group is a legally separate entity from the infrastructure provider, RHK.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	No	Rail freight turnover is identified, but only as being one part of the global business activities of the company. There is no separate set of accounts for the rail freight division. Consequently, as in the ECORYS report, we cannot confirm whether there are cross-subsidies or not[176].
9.4(a)	Requirement to publish separated accounts	No`	The separated accounts are not published.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	VR Group is clearly in receipt of PSO for passenger transport in the Helsinki metropolitan area, for example[177], although no costs are detailed in the set of accounts.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	We have not encountered any evidence that PSO funding is being transferred.

[176] ECORYS Report 2006, p 122
[177] VR Goup Annual Report 2007, p 44

8.6.6 VR Group receives public budget contributions from the government to cover its 'Net Expenses' for the year. These comprise operating costs and new capital investment, net of income from infrastructure charges and other sales.

Table 90 Public subsidy paid to VR Group 2001 – 2004

Year	Amount (€ bn)
2004	0.51
2003	0.46
2002	0.38
2001	0.43

Table 91 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	1,211	1,235	1,298	1,383
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	471	474	487	492
Operating costs	1,151	1,176	1,216	1,298
Operating profit	60	59	82	85
Financial expenses	1	1	1	1
P&L on ordinary activities before tax	68	63	86	91
Total fixed assets	1,212	1,282	1,253	1,241
Long term receivables	2	2	3	5
Total current assets	303	228	296	347
Trade debtors	85	92	124	116
Other debtors	3	3	4	5
Current asset investments	122	50	80	122
Cash at bank and in hand	5	7	10	9
Creditors: <1yr (Current Liabilities)	245	213	208	211
Creditors: >1yr	48	47	47	46
Provisions for liabilities and charges	1	3	3	2
Equity	1,223	1,250	1,294	1,334
	No. / Km			
Average no. employees	13,264	12,791	12,663	12,540
Passenger-kilometres (m.)	3,352	3,478	3,540	3,778
Tonne-kilometres (m.)	10,105	9,706	11,060	10,434
Managed kilometres	0	0	0	0

Note: the figure 0 in 'total subsidisation' above does not represent a lack of subsidisation, rather that there is no figure available.

Table 92 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	1,211	1,235	1,298	1,383
Net profit (€m.)	68	63	86	91
Operating profit (€m.)	60	59	82	85
Total assets (€m.)	1,517	1,512	1,553	1,593
Profitability				
Operating profit margin	5%	5%	6%	6%
Net margin	6%	5%	7%	7%
Return on assets	4%	4%	6%	6%
Return on equity	6%	5%	7%	7%
Viability ratio	105%	105%	107%	107%
Efficiency				
Liabilities / operating costs	0.3	0.2	0.2	0.2
Cost per staff member (€ '000)	87	92	96	104
Staff costs as a proportion of operating costs	41%	40%	40%	38%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	0.36	0.36	0.37	0.37
Total Revenue per Freight Km (€)	0.12	0.13	0.12	0.13
Total revenue per managed km (€ '000)	-	-	-	-
Indebtedness				
Total debt of the company (€m.)	19	5	7	9
Debt / Total liabilities	6%	2%	3%	3%
Debt: Equity ratio	0.0	0.0	0.0	0.0
Quick ratio	0.9	0.7	1.0	1.2
Current ratio	1.2	1.1	1.4	1.6
Debt service coverage ratio	87.5	61.9	105.4	77.7
Public funding				
Total public income (€m.)	0	0	0	0
Public funding / costs	0%	0%	0%	0%
Public funding / revenue	0%	0%	0%	0%

8.7 Ratahallintokeskus – RHK (The Finnish Rail Administration)

8.7.1 RHK has existed since 1995 and is responsible for maintaining and developing Finland's rail network. The goal is to keep the present rail network in the condition necessary to meet customers' needs so that services are safe and efficient. RHK is responsible for the maintenance, development and safety of the rail network and supervises the flow of rail traffic. It operates under the Ministry of Transport and Communications.

8.7.2 The Finnish Rail Administration's main functions are planning infrastructure management, building and maintaining tracks, allocating rail capacity and managing traffic. Finland has 5,794 km of railway, including 3,047 km of electrified lines.

8.7.3 The Finnish Rail Administration purchases track maintenance and construction work as well as real estate management and traffic control services from outside enterprises. RHK's Traffic Management Centre monitors the flow of rail traffic.

8.7.4 In 2007 RHK spent about €430 million on infrastructure management. Funds for infrastructure management come mainly from the state budget. In addition the rail operator pays track fees for the use of the rail network.

Figure 7 RHK organisation structure

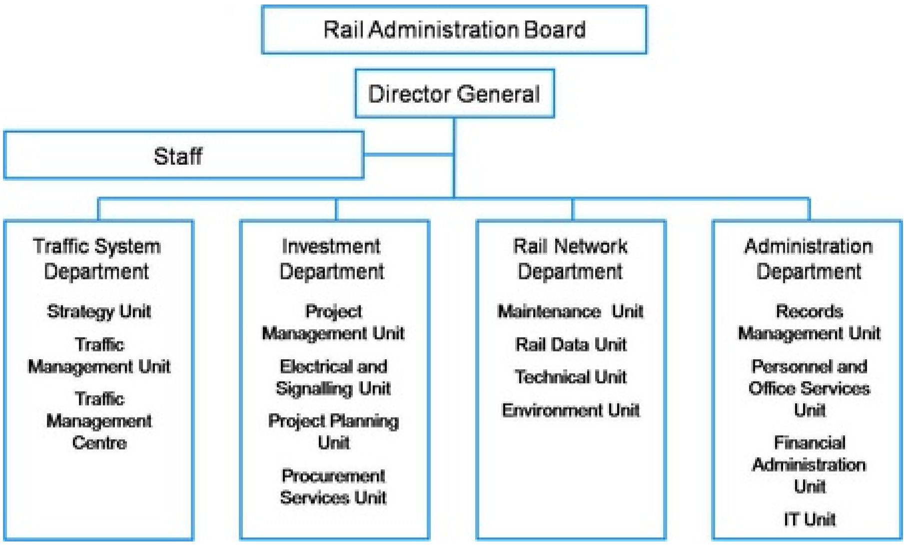


Table 93 Accounting Issues

Issue	Quality	Comment
Audit Assurance	N/A	No statement is provided from the auditors as to the validity of the accounts. However, financial statements are freely available online.[178]
Transparency	Partial	RHK's accounts give a good level of disclosure for all its activities. Total track access fees are given, as well as the outgoings on specific projects. As only financial statements are available, we are not able to comment more widely.
Visibility of transfers from other rail businesses	Good	There is a good level of disclosure of charges from other rail streams, for example track access fees.
Visibility of intra-group transfers	N/A	RHK only provides infrastructure management services. However, as part of this a small real estate activity is included.

Table 94 Company compliance with EC Directive 2001/EC/12

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway	Yes	RHK is a structurally separate company from the railway undertakings. Its accounts are downloadable online.

[178] http://rhk-fi-bin.directo.fi/@Bin/955a462fb81bb12212ed451c4826654b/1235579534/application/pdf/2017467/RHK_Financial_Review_2007.pdf

	undertakings and, on the other, for business relating to the management of railway infrastructure.'		
6.1(a)	Requirement to publish separated accounts	Yes	These accounts are published and available for download, but only in summary form.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	RHK is a structurally separate company from the railway undertakings.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by RHK. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	RHK is a legally separate entity from the railway undertakings.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	RHK is an infrastructure manager and does not have a freight operating division. This issue does therefore not apply.
9.4(a)	Requirement to publish separated accounts	Yes	RHK is not required to publish separated freight accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	RHK receives no PSO for passenger transport. This issue does therefore not apply.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	RHK receives no PSO for passenger transport. This issue does therefore not apply.

8.7.5 We note that RHK is not wholly compliant with the accounting separation directives. Specifically;

- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.

8.7.6 Performance

Table 95 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	54	74	61	52
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	501	459	371	409
Wages, Salaries, Social Security Payments	7	8	8	7
Operating costs	347	343	339	347
Operating profit	-293	-269	-278	-294
Financial expenses	0	0	0	0
P&L on ordinary activities before tax	-293	-269	-278	-294
Total fixed assets	13	2,977	3,063	3,163
Long term receivables	0	0	0	0
Total current assets	13	13	15	12
Trade debtors	11	12	15	12
Other debtors	2	1	0	0
Current asset investments	0	0	0	0
Cash at bank and in hand	0	0	0	0
Creditors: <1yr (Current Liabilities)	79	61	73	68
Creditors: >1yr	0	0	0	0
Provisions for liabilities and charges	0	0	0	0
Equity	2,760	2,929	3,005	3,107
	No. / Km			
Average no. employees	134	141	101	114
Passenger-kilometres (m.)	0	0	0	0
Tonne-kilometres (m.)	0	0	0	0
Managed kilometres	5,741	5,732	5,905	5,899

Table 96 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	54	74	61	52
Net profit (€m.)	-293	-269	-278	-294
Operating profit (€m.)	-293	-269	-278	-294
Total assets (€m.)	25	2,990	3,078	3,174
Profitability				
Operating profit margin	-543%	-361%	-453%	-564%
Net margin	-543%	-361%	-453%	-564%
Return on assets	-1167%	-9%	-9%	-9%
Return on equity	-11%	-9%	-9%	-9%
Viability ratio	16%	22%	18%	15%
Efficiency				
Liabilities / operating costs	0.2	0.2	0.2	0.2
Cost per staff member (€ '000)	2,586	2,435	3,356	3,041
Staff costs as a proportion of operating costs	2%	2%	2%	2%
Unit operating costs (€ '000)	60	60	57	59
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€ '000)	0.01	0.01	0.01	0.01
Indebtedness				
Total debt of the company (€m.)	0	0	0	0
Debt / Total liabilities	0%	0%	0%	0%
Debt: Equity ratio	0.0	0.0	0.0	0.0
Quick ratio	0.2	0.2	0.2	0.2
Current ratio	0.2	0.2	0.2	0.2
Debt service coverage ratio	-8,866.0	-10,339.3	-13,222.3	-16,356.9
Public funding				
Total public income (€m.)	501	459	371	409
Public funding / costs	145%	134%	109%	118%
Public funding / revenue	929%	616%	604%	783%

8.8 Conclusions

8.8.1 From the data available to us, we can conclude that:

- Finland has not fully implemented the EU directives on accounting separation exactly, and only some have been transposed into national legislation. It is arguably somewhat vague to say 'Railway undertakings shall in their accounts observe the relevant provisions valid in the European Community and Finland' without specifying precisely what these are.
- VR Group did not publish separated accounts for its freight operating activities.
- RHK is responsible for the management and maintenance of the railway infrastructure. It does appear to be fully compliant with the requirements of the directives. However, in RHK's case, this is caveated in that only financial statements are provided, without thoroughgoing conventional accounts. These do not offer great detail, and nor is there evidence of their having been audited.

9 FRANCE

9.1 Industry overview

9.1.1 The French rail industry is dominated by SNCF, the state owned incumbent passenger and freight operator. Since 1997, the infrastructure has been owned by RFF, a state owned company which outsources much of its infrastructure management operations to SNCF.

9.1.2 SNCF and its subsidiaries were responsible for over 99% of the traffic on the network in 2007. Though this figure was quite constant between 2006 and 2007, the number of train km attributable to new operators rose by 640% (0.5m train km to 3.7m).[179]

9.1.3 In 2004, the French freight market was forced to begin opening up to competition after state aid (€800m) was approved by the European Commission for Fret SNCF which had generated significant losses in late 2003.[180] SNCF underwent a process referred to as Plan Fret 2004 – 2007 which was aimed at reorganising the routing and management of wagons, improving productivity and overhauling the company strategy. In 2006, Fret SNCF was permitted to make a maximum loss of €47m; however, it continues to exceed this limit. Further restructuring is ongoing.

9.1.4 SNCF's holds the status of an Etablissement Public Industriel et Commercial (EPIC) meaning that the company's debt is implicitly guaranteed by the State. Although the State is not explicitly obliged to pay on demand, credit ratings suggest that the French government would honour the parent company's debt repayments when due, if necessary.[181]

9.1.5 The regulatory authority in France is Mission de Controle des Activites Ferroviaires (MCAF). It was created in 2003 by Decree No. 2003-194, the legislation which implemented 2001/12/EC, 2001/13/EC and 2001/14/EC. Its role is set out by the Decree of 6th May 2003.

9.1.6 Primarily MCAF is charged with monitoring the allocation of capacity, the access charging system, compliance with safety rules and the implementation of framework agreements for infrastructure usage.[182] MCAF has no decision making powers and is only entitled to submit recommendations to the Ministry of Transport. It has no decision making power of its own.[183]

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[179] RFF Annual Report 2007, p 8
[180] Ministry of Transport website, www.transports.equipement.gouv.fr
[181] Standard & Poor's, Corporate Ratings, Societe Nationale des Chemins de Fer Francais, 2006, p 2
[182] Decree of the 6th May on the inspection of the railway, www.legifrance.gouv.fr
[183] IBM Global Business Services, Rail Liberalisation Index, pp 128 – 129

9.2 List of Licensed Railway Undertakings[184]

Passenger	Freight	Infrastructure Manager
SNCF*	SNCF* Europorte 2 CFTA Cargo Veolia* SECO Rail VFLI Euro Cargo Rail	RFF*

*Companies with revenues greater than €50m which will be studied in depth.

9.3 Industry Regulator & Government Departments

- Regulatory Authorities
  - Mission Control Activites Ferroviaires[185]
- Ministry of Finance
  - Ministere de L'economie de L'industrie et de L'emploi[186]
- Ministry of Transport
  - Ministere de l'Ecologie, de L'Energie, du Developpement durable et de l'Amenagement du territoire[187]

9.4 Legal Framework

9.4.1 Decree No. 2003 – 194 of 7th March 2003 on the use of the national rail network[188]

Article 31

The specification for the Societe Nationale des Chemins de Fer Francais, approved by Decree No.83 – 817 of 13th September 1983 referred to above is amended as follows:

XIX; The second, third, fourth and fifth paragraphs of Article 54 are replaced by the following provisions:

'The estimate includes also the estimated overall result, and estimate of earnings per activity, a physical and financial investment and financing plan.

'The contributions made under the public service tasks performed in the part of the passenger transport are shown separately in the accounts and can not be diverted to other activities.'

XX; After serction 58 has been inserted, Article 58-1 is as follows:

'Article 58 – 1 – Societe nationale des chemins de fer francais shall produce a separate balance sheet showing assets and liabilities of transport activities and rail freight.'

184 European Railway Agency, www.era.europa.eu
185 www.mission-controleferroviaire.fr
186 www.minefe.gouv.fr
187 www.developpement-durable.gouv.fr
188 http://www.rff.fr/biblio_pdf/mis_08032003_decret_ouverture%20fret.pdf

9.4.2 Law number 97 – 135 of 13th February 1997 establishing the public institution 'Reseau Ferre de France for the revival of rail transport.

Article 1

'From the 1st January 1997 a national public institution called Reseau Ferre de France is established. This is designed in accordance with the principles of public service and to promote rail transport in France with the purpose of sustainable development, planning, coherence and enhancement of the national rail network infrastructure…

In view of safety and continuity of public services, traffic management and traffic on the national rail network, the operation and maintenance of technical installations and security are provided by the Societe Nationale des Chemins Francais under the objectives and principles of management defined by Reseau Ferre de France who compensate for this.'

Article 3

'…It may set up subsidiaries or acquire shares in companies, groups or organizations with a goal related or complementary to its missions. As part of the group's objectives, these subsidiaries have financial self management but may not receive financial assistance from the state,,,'

Article 5

'Property constituting the infrastructure and buildings not used for the operation of transport services, managed by SNCF is, at the date 1st January 1997, made in full ownership of RFF. Property constituting the infrastructure includes the tracks, associated fixed equipment, structures and level crossings, passenger platforms and goods loading yards, plant signaling equipment, electric and telecoms related infrastructure and buildings used for the operation and maintenance of infrastructure.'

Table 97 EC Directive 2001/EC/12 transposition

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Partial (i)	'From the 1st January 1997 a national public institution called Reseau Ferre de France is established. This is designed in accordance with the principles of public service and to promote rail transport in France with the purpose of sustainable development, planning, coherence and enhancement of the national rail network infrastructure…' 'Property constituting the infrastructure and buildings not used for the operation of transport services, managed by SNCF is, at the date 1st January 1997, made in full ownership of RFF…' A legally separate state company has been established for the ownership and management of infrastructure. As a separate company, it is required to produce separate accounts to SNCF.
6.1(a)	Requirement to publish separated accounts	No	We were unable to locate legislation relating to this point.
6.1	'Public funds paid to one of these two areas of activity may not be transferred	No	We were unable to locate legislation

	to the other.'		relating to this point.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	We were unable to locate legislation relating to this point.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	'From the 1st January 1997 a national public institution called Reseau Ferre de France is established. This is designed in accordance with the principles of public service and to promote rail transport in France with the purpose of sustainable development, planning, coherence and enhancement of the national rail network infrastructure…' 'Property constituting the infrastructure and buildings not used for the operation of transport services, managed by SNCF is, at the date 1st January 1997, made in full ownership of RFF…'
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Partial (ii)	'Societe nationale des chemins de fer francais shall produce a separate balance sheet showing assets and liabilities of transport activities and rail freight.'
9.4(a)	Requirement to publish separated accounts	No	We were unable to locate legislation relating to this point.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	'The contributions made under the public service tasks performed in the part of the passenger transport are shown separately in the accounts…
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	'…and can not be diverted to other activities.'

9.4.3 Notes

(i) This is not explicitly implemented but the law of 1997 set up a separate company for the management and ownership of infrastructure, which implements this in practice. However, we understand that SNCF performs many of the infrastructure maintenance activities for a fee. We were unable to identify legislation stipulating that separate accounts must be produced for SNCFs infrastructure management services.

(ii) This only specifies balance sheets, not profit and loss accounts.

9.4.4 In our opinion, the French legislation does not fully implement the accounting separation requirements of the EC directive 2001/12/EC, specifically;

- Article 6.1 – we were unable to locate legislation stipulating that companies are required to publish their accounts.

- Article 6.1 – we were unable to locate legislation relating to the transfer of public funds between passenger and infrastructure companies.
- Article 6.1 – we were unable to locate legislation relating to the way in which accounts are to be kept in order to reflect the prohibition on the transfer of public funds.
- Article 9.4 – the legislation relating to separate accounts for freight activities only seems to refer to separate balance sheets. There is no mention of separate profit and loss accounts or of the requirement to publish accounts.

9.4.5 It is unclear who is responsible for monitoring compliance with accounting separation requirements.

9.5 Sources of Information

9.5.1 French laws and regulations:

- Law of the 13th February 1997 establishing the Reseau Ferre de France[189]
- Decree of the 6th May on the inspection of the railway[190]
- Decree No. 2003 – 194 of 7th March 2003 on the use of the national rail network.[191]

9.5.2 Annual accounts:

- SNCF Consolidated Annual Reports (2004 – 2007)
- SNCF Participations Annual Report 2007
- RFF Annual Reports (2004, 2005, 2007)

9.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- SNCF website[192]
- Correspondence with SNCF, February – March 2009
- Standard & Poor's, Corporate Ratings, Societe Nationale des Chemins de Fer Francais, 2006
- Fitch Ratings, Societe Nationale des Chemins de fer Francais, 2006
- Desk based research

9.6 Societe Nationale des Chemins de Fer Francais (SNCF) Group & SNCF Participations

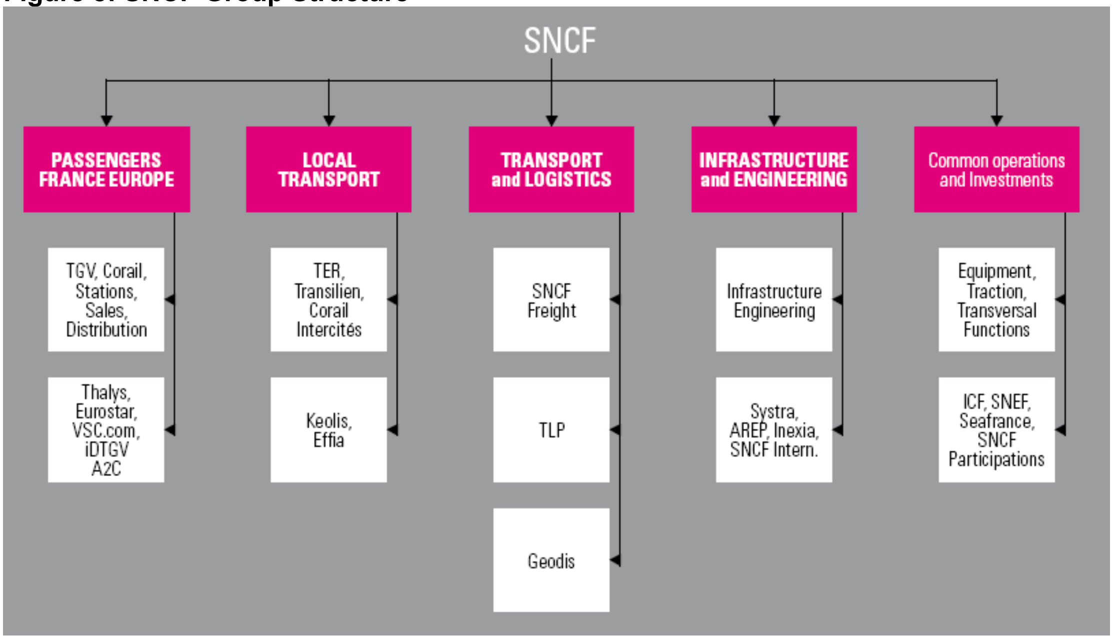
9.6.1 SNCF is a state owned, integrated company providing freight, passenger and infrastructure management operations. SNCF has the status of an EPIC, which is a public entity charged with the provision of a public service. SNCF is compensated by the state for its public service obligations. This status also means

[189] www.lexinter.net
[190] www.legifrance.gouv.fr
[191] http://www.rff.fr/biblio_pdf/mis_08032003_decret_ouverture%20fret.pdf
[192] www.sncf.fr

that SNCF's debts are implicitly guaranteed by the state. We understand that the EPIC activities are undertaken separately to the private activities of SNCF Group.

9.6.2 SNCF's private activities are conducted by several separated business units, operating under a holding company – SNCF Participations (see Figure 8).

Figure 8: SNCF Group Structure



9.6.3 Whilst, from 1997, RFF has owned the French infrastructure, the infrastructure management functions are outsourced to SNCF and in 2007, this activity generated revenues of €4.53bn. These activities are conducted under a separate subsidiary (SNCF Infrastructure and Engineering). In 2007, a 4 year management agreement was agreed between RFF and SNCF, worth €11bn. This defined and clarified the two parties' respective responsibilities.[193]

9.6.4 The corporate structure of SNCF is complex but the consolidated accounts set out a list of subsidiaries with those relating to passenger and freight being split under the following headings:

- Passengers France and Europe
- SNCF Local Transport
- Transport and Logistics

<u>Passengers France and Europe</u>

Many of the passenger railway subsidiaries listed as being "Passengers France and Europe" are 100% owned by SNCF. Where SNCF does not have 100% ownership of these subsidiaries, ownership is shared with a variety of companies, including those detailed below:

- Lyria – 74% owned by SNCF with the remaining 26% owned by the Swiss railway company; CFF, *(Chemins de Fer Fédéraux suisses).*

- Thalys International – 62% owned by SNCF and 28% owned by the SNCB Group (Belgium Railways).

[193] SNCF Annual Report 2007, p 34

- Intercapital Regional Rail Limited – 35% owned by SNCF with the remaining 65% owned by National Express, SNCB and BA.

SNCF Local Transport

SNCF Local Transport primarily relates to subsidiaries which are owned by Keolis Group, for which the equity method of accounting has been applied in SNCF's consolidated accounts.

SNCF owned 45.37% of Keolis Group and its subsidiaries in 2007[194]. Since November 2006, the remaining 54.63% has been owned by the following: AXA private equity (approximately 26%), *Caisse de □epot et placement du Québec* (approximately 26%) with Keolis Senior Management owning around 3%.[195] The majority of these subsidiaries are based within the different departments in France and operate bus and tramway networks.

Transport and Logistics

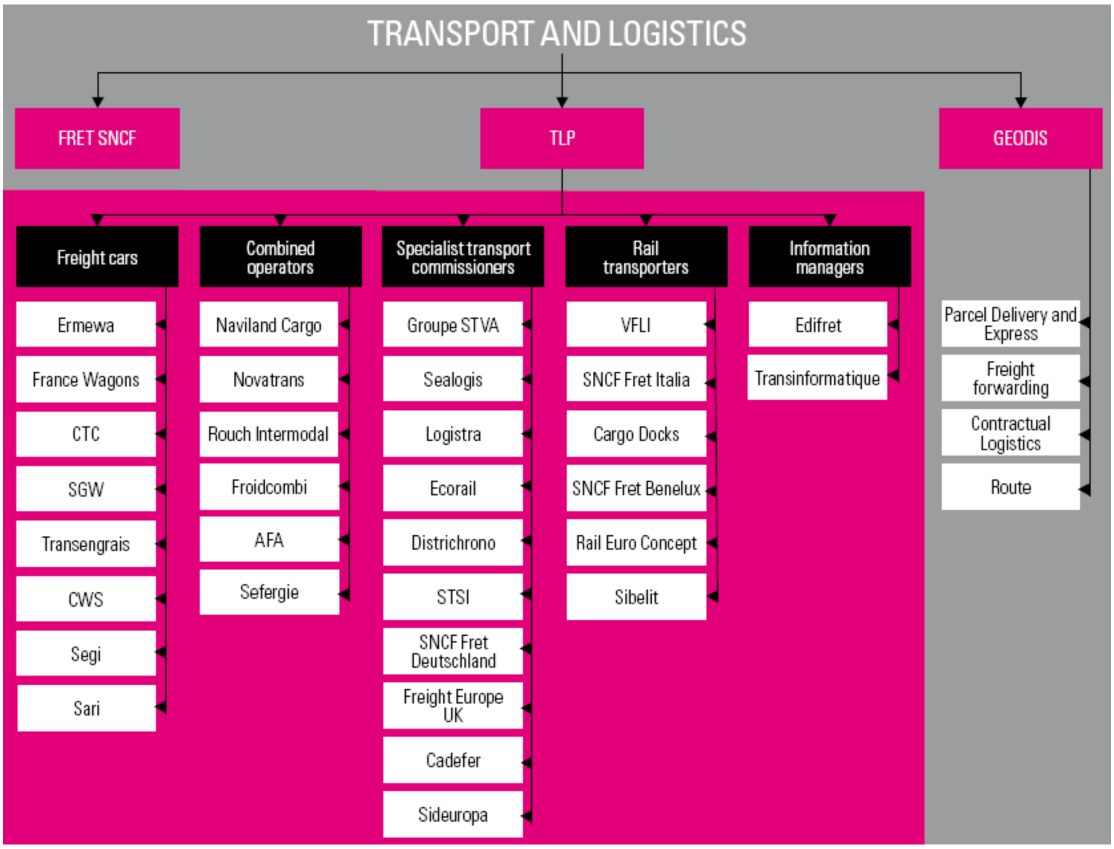
The Transport and Logistics division is made up of mostly wholly owned subsidiaries[196] (see Figure 9). The Geodis group, purchased in 2008, accounts for a large part of these. With this acquisition, the Geodis freight division went international and became the fourth largest European freight and logistics operator[197].

The Geodis group covers the following divisions: Parcels, Freight Forwarding, Contract Logistics and Road.

For subsidiaries where SNCF owns less than 100%, we have been unable to identify the other shareholders.

[194] Ibid
[195] http://www.axaprivateequity.com/en/press/Pages/Keolis.aspx
[196] See note 1.
[197] http://www.usinenouvelle.com/article/avec-geodis-le-fret-sncf-prend-du-poids.135552

Figure 9 SNCF Transport and Logistics



9.6.5 The Freight division of SNCF generated significant losses in late 2003 in the face of a loss of business.[198] Consequently, in 2004, state aid amounting to €800m, for the purpose of restructuring Fret SNCF was approved by the European Commission and granted to the company. This was known as Plan Fret 2004 – 2007 and was aimed at reorganising the routing and management of wagons, improving productivity and overhauling the company strategy. However, the 2007 annual report shows a loss in the Freight and Logistics division of €185m[199] and further restructuring work was planned.

9.6.6 Currently, we have managed to obtain the SNCF Group company accounts for 2004 – 2007. These include separate summary profit and loss accounts and balance sheets for infrastructure, freight and passenger activities. Further, we have been in correspondence with SNCF and requested more detailed accounts and further information about subsidiaries. They failed to provide these details and, consequently, we have conducted our analysis on the consolidated accounts.

[198] Ministry of Transport website, www.transports.equipement.gouv.fr
[199] SNCF Annual Report 2007, p 26

9.6.7 Accounting Issues

Table 98 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Poor	'In our opinion, except for the matters described above [see note (i)], the financial statements present fairly, in all material respects, the financial position of the Company at December 31st 2007 and the results of its operations for the year then ended, in accordance with the accounting rules and principles applicable in France.' Ernst & Young, March 2008
Transparency	Partial	There is a high level of detail relating to consolidated group activities and transactions in the consolidated group accounts. They do not, however, give a large amount of detail of each business unit, with only summary balance sheets and P&L's provided for each SNCF division and no further detail of the subsidiaries within these divisions. For example, revenues are only broken into 'External Revenue' and 'Internal Revenue' and there is no information about public funding received by each business unit or subsidiary.
Visibility of transfers from/to other rail businesses	Partial	The values of transactions with RFF are given in the annual reports, along with the RFF entries in the balance sheet. There do not appear to be any other records of transactions with other non-group railway companies.
Visibility of intra-group transfers	Partial	The consolidated cash flow statement has an entry entitled 'Cash flow from consolidated company operations' which amounts to €1.9bn in 2007. There does not appear to be further detail of transfers between SNCF subsidiaries in the consolidated company accounts 2007.

9.6.8 Notes

(i) The auditors expressed the following concerns:

- 'The SNCF performed Impairments tests on fixed assets as described in Note 2 of the financial statements. Concerning Freight activity, where no forecasted cash flows were available and considering the valuation method used for the rolling material, we are not able to give an opinion on the recoverable amount of the fixed assets whose value amounts to €1.2bn.'
- '…the arbitration committee gave its conclusions on the devolution of fixed assets between RFF and SNCF. In view of the fact that no full agreement has been settled between the two parties, no financial or accounting impact has been recorded in the year end accounts. We are not able to assess the consequences on the consolidated financial statements at December 31st 2007.'

(ii) The second of these issues highlights ambiguity in the division of fixed assets between the infrastructure manager and SNCF. When RFF was formed, assets directly related to the provision of transport were transferred to it from SNCF, whilst others remained in SNCF ownership.

(iii) The auditors' report relates to section 5.1.7.4[200], entitled Provisions for doubtful debts, in the RFF accounts which shows that decisions made by an arbitration commission about the split of assets between RFF and SNCF have been disputed by SNCF. Payments totalling €31.8m are payable by SNCF, though they have refused to pay the invoices.

Table 99 EC Directive 2001/EC/12 compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	Separate summary P&L accounts for each business division, including the infrastructure division and each of the passenger divisions. Separate summary balance sheets for each division are provided in the accounts for SNCF Participations. Whilst compliant, neither the P&L nor the balance sheets are highly detailed. The consolidated accounts are available to download from the company website.
6.1(a)	Requirement to publish separated accounts	Yes	The accounts for SNCF Group and SNCF Participations are published on the company website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We were unable to identify any evidence of the transfer of public funds between infrastructure (neither RFF nor SNCF functions) and transport services.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. The information available is not detailed enough to monitor for the transfer of public funding. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	RFF and SNCF are legally separate state owned companies. SNCF's infrastructure activities are separated into a separate business division.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	Separate summary P&L accounts for each business division, including the freight and logistics division Separate summary balance sheets for each division are provided in the accounts for SNCF Participations.

[200] RFF Annual Report 2007, p 111

9.4(a)	Requirement to publish separated accounts	Yes	The accounts for SNCF Group are published on the company website.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	In the consolidated accounts we managed to obtain, public funds are included in revenue figures but are not given separately for each PSO contract.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	We did not find evidence of the transfer of PSO transport funds to other divisions or businesses.

9.6.9 In our opinion, SNCF is not in compliance with the European directives on accounting separation;

- Article 6.1 – The accounts we obtained are not detailed enough to determine whether there are transfers between SNCF's infrastructure activities and other activities.
- Article 6.1 – The statutory accounting regime applied by SNCF is not sufficient to detect the illegal transfer of public funding and, therefore, it is not compliant with the requirement of the directive relating to keeping accounts in a way which reflects the prohibition of the transfer of public funds..
- Article 9.4 – The accounts we obtained did not give detail of transport PSO funding.

9.6.10 There is generally a lack of detail in the accounts we obtained. We were unable, in particular, to determine quantities and uses of public funding for each business unit.[201] This has made it impossible to say with any degree of certainty to what extent SNCF complies with the EC directives on accounting separation.

Table 100 Public funding from accounts

Year	**2004**		**2005**		**2006**		**2007**	
Type	**Amount (€m)**	**Use**	**Amount (€m)**	**Use**	**Amount (€m)**	**Use**	**Amount (€m)**	**Use**
Grants	**6,084**	**Various**	**6,732**	**Various**	**6,816**	**Various**	**5,671**	**Various**
Total	**6,084**		**6,732**		**6,816**		**5,671**	

9.6.11 The figures included in the accounts comprise of grants for public service orders, from regional sources and STIF (services for transport organising authorities), funds received from the state for 'Newspapers', 'Socially motivated prices' and 'Defence' and grants and compensation for financial and social expenses. The amounts for each use are not given.

9.6.12 We have not included the quantities received from the state owned RFF for infrastructure management in these amounts.

Table 101 Public funding from other sources[202]

Year	**Amount (€m)**	**Type**	**Source**
2004	✂	PSO	SNCF
	✂	Loan for 'Transilien'	SNCF
	✂	Investment grants	SNCF

[201] SNCF Annual Report 2007, p 22
[202] Information redacted at request of SNCF.

	✂	Non specific rail subsidies	SNCF
	✂	Debt service amortisation	SNCF
	✂	Grant for retirement and compensation schemes	SNCF
2005	✂	PSO	SNCF
	✂	Loan for 'Transilien'	SNCF
	✂	Plan Fret	SNCF
	✂	Investment grants	SNCF
	✂	Non specific rail subsidies	SNCF
	✂	Debt service amortisation	SNCF
	✂	Grant for retirement and compensation schemes	SNCF
2006	✂	PSO	SNCF
	✂	Loan for 'Transilien'	SNCF
	✂	Plan Fret	SNCF
	✂	Investment grants	SNCF
	✂	Non specific rail subsidies	SNCF
	✂	Debt service amortisation	SNCF
	✂	Grant for retirement and compensation schemes	SNCF
2007	✂	PSO	SNCF
	✂	Loan for 'Transilien'	SNCF
	✂	Investment grants	SNCF
	✂	Non specific rail subsidies	SNCF
	✂	Debt service amortisation	SNCF
	✂	Grant for pension and compensation schemes	SNCF

9.6.13 The figures from other sources are all directly from SNCF and give breakdowns of the different types of public funding the company receives. All the loans noted above are serviced in the following way:

Table 102 State loans to SNCF[203]

Year	Amount	Repayment period	Interest rate
2004	✂	✂	✂
2005	✂	✂	✂
2006	✂	✂	✂
2007	✂	✂	✂

9.6.14 It is also noted that since July 2007, the pension fund is an autonomous body.

[203] Information redacted at request of SNCF.

9.6.15 Performance

Table 103 Financial ratios

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	22,096	21,024	21,903	23,691
Revenue from Passenger transport	11,612	11,408	12,027	12,799
Revenues from Freight transport	6,393	6,703	6,595	7,726
Revenue from infrastructure charges	4,054	4,342	4,468	4,532
Total subsidisation	6,084	6,732	6,816	5,671
Wages, Salaries, Social Security Payments	9,779	9,157	9,328	8,895
Operating costs	21,583	20,260	20,912	22,011
Operating profit	513	764	991	1,680
Financial expenses	361	303	319	871
P&L on ordinary activities before tax	152	461	672	809
Total fixed assets	18,469	19,197	20,358	32,284
Long term receivables	8,436	6,810	5,142	0
Total current assets	8,245	9,537	10,894	15,565
Trade debtors	2,653	2,624	2,623	2,797
Other debtors	3,171	3,898	4,209	8,561
Current asset investments	1,292	1,946	2,926	2,807
Cash at bank and in hand	443	456	503	618
Creditors: <1yr (Current Liabilities)	10,730	12,523	13,323	22,085
Creditors: >1yr	18,624	16,045	14,948	17,038
Provisions for liabilities and charges	2,397	2,006	2,028	491
Equity	3,399	4,970	6,095	8,235
	No. / Km			
Average no. employees	229,877	205,839	201,742	201,545
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

Table 104 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	22,096	21,024	21,903	23,691
Net profit (€m)	152	461	672	809
Operating profit (€m)	513	764	991	1,680
Total assets (€m)	35,150	35,544	36,394	47,849
Profitability				
Operating profit margin	2%	4%	5%	7%
Net margin	1%	2%	3%	3%
Return on assets	0%	1%	2%	2%
Return on equity	4%	9%	11%	10%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	1.5	1.5	1.4	1.8
Cost per staff member (€ '000)	94	98	104	109
Staff costs as a proportion of operating costs	45%	45%	45%	40%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	23,510	22,227	21,803	29,266
Debt / Total liabilities	74%	73%	72%	74%
Debt: Equity ratio	6.9	4.5	3.6	3.6
Quick ratio	0.7	0.7	0.8	0.7
Current ratio	0.8	0.8	0.8	0.7
Debt service coverage ratio	1.4	2.5	3.1	1.9
Public funding				
Total public income (€m)	6,084	6,732	6,816	5,671
Public funding / costs	28%	33%	33%	26%
Public funding / revenue	28%	32%	31%	24%

9.6.16 The data in Table 103 shows the financial ratios for the consolidated data provided in the accounts. It shows SNCF to be profitable, with high turnover and significant income from public funding (although the public funding figures need further analysis.) It is also apparent that SNCF has significant debts.

9.6.17 The quick and current ratios are both below 1 and remain so for the duration of the period 2004 – 2007. This could be as a result of liquidity issues.

9.7 RFF

9.7.1 As a result of national legislation, in 1997 RFF was formed as an EPIC to act as the new state-owned owner of the French rail infrastructure. The purpose of this was to separate ownership of the infrastructure from its operation (conducted by SNCF). When RFF was formed, the assets taken over were transferred from SNCF to its opening balance sheet. €20.5bn of debt was also transferred from SNCF.

9.7.2 As infrastructure manager, RFF's responsibilities include:

- Management and maintenance of the network
- Allocation of capacity
- Upgrade and develop the network – conception, programming, financing and implementation of investment in the national rail network.
- Managing railway property
- Managing debt – RFF manages a debt of €26.5m.

9.7.3 As much of RFF's management and maintenance work is carried out on its behalf by SNCF, the roles are defined as:

- RFF
    - Owner of national rail network
    - Project lead for investment in the rail network
    - Infrastructure manager
- SNCF
    - Transporter and train operator – for which it pays infrastructure access charges to RFF
    - Contract supervisor for projects on the existing network – assisting in the conduct of technical studies, prepares calls for tender and oversees the quality of work by contractors.
    - Delegated manager – in charge of:
        - Management of regulation and safety systems.
        - Operational management of rail traffic.
        - Efficient operation of the network and technical installations.[204]

[204] RFF website, www.rff.fr, March 2009

9.7.4 Accounting Issues

Table 105 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Poor	‘Subject to the above mentioned qualification [see note (i)], in our opinion, the financial statements give a true and fair view of the Company’s financial position and its assets and liabilities, as of 31st December 2007, and of the results of its operations for the year then ended in accordance with the accounting rules and principles applicable in France.’ KPMG, April 2008
Transparency	Good	The RFF accounts are detailed, giving a good level of disclosure to depreciation periods,
Visibility of transfers from/to other rail businesses	Good	There is a high level of detail relating to transfers with SNCF, including entries in the balance sheet for payments due from and to SNCF. There are also entries in the P&L for delegated management fees.[205] SNCF also have two current accounts with RFF; an Investment Current Account and Operating current accounts.[206] There is also a breakdown of traffic by type on the RFF network. This includes a split of SNCF services and a separate entry for other operators, which is aggregated.
Visibility of intra-group transfers	Good	RFF is not part of a group. However, both RFF and SNCF are state owned, meaning that the state effectively acts as a holding company. To this effect, the annual reports for RFF clearly detail funding from the state and transactions with SNCF.

9.7.4.1 Notes

(i) The auditors had the following concerns regarding the 2007 RFF annual reports[207]:

- ‘…the state is considering how to calculate the amount of toll fees rail operators should be charged and how to finance Reseau ferre de France. As it is not possible to provide a reliable estimate of future cash flows, the company was not in a position to calculate the present value of its tangible assets at the balance sheets date. Accordingly, the amount of asset impairment remains identical to that recognised at 31st December 2006. As the assets were not tested for impairment at 31st December 2007, we were not able to obtain assurance, by any other means, as to the appropriateness of maintaining the same level of impairment of fixed assets as at 31st December 2006.’
- ‘Without modifying our opinion expressed above, we draw your attention to the following notes to the financial statements: Note 5.1.7.4 describing (i) the non settlement by SNCF of payments outstanding concerning non traffic income; and (ii) the requests made by SNCF to RFF for it to bear

[205] Ibid, p 61
[206] Ibid, p 110
[207] Ibid, p 129

the additional rental expenses and investments following the transfer of certain assets.'

(ii) The auditors' report relates to section 5.1.7.4[208], entitled Provisions for doubtful debts, which shows that decisions made by an arbitration commission about the split of assets between RFF and SNCF have been disputed by SNCF. Payments totalling €31.8m are payable by SNCF, though they have refused to pay the invoices.

(iii) The accounting separation of SNCF from RFF does not appear to have been finalised, and certain issues remain outstanding. Examples are presented by the auditors in their opinion (above). The second point suggests that the accounting separation and basis for charging between SNCF and RFF remain unclear.

Table 106 EC Directive 2001/EC/12 compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	RFF provides only infrastructure management and ownership services and publishes its own accounts, including P&L and balance sheets.
6.1(a)	Requirement to publish separated accounts	Yes	The annual reports are available to download from the company website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We were unable to identify any evidence suggesting that public funds are transferred from RFF to transport businesses.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by RFF. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	RFF are legally separate to all transport providers.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	RFF do not provide freight services.

[208] RFF Annual Report 2007, p 111

9.4(a)	Requirement to publish separated accounts	Yes	RFF do not provide freight services.
9.4	’Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	Yes	RFF do not receive PSO funds for the provision of passenger transport.
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	RFF do not receive PSO funds for the provision of passenger transport.

9.7.5 In our opinion, RFF is in compliance with the majority of the EC directives on accounting separation. However, it does not comply with:

- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.

9.7.6 Generally there is a good level of detail given in the RFF accounts, including the transactions which occur with SNCF. Public funding is well documents, including investment grants, grants for upgrading and compliance, state contributions to operating costs, debt reduction grants and other capital injections from the state. There are no disaggregated figures for transfers to other rail companies, however, since their use of the infrastructure is relatively tiny (3.7m train km compared to SNCF’s 525.8m km), this is not necessarily an issue.

Table 107 Public funding from accounts

Year	2004		2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
Operating grants	1,110	Grant for operations	1,038	Grant for operations	1,011	Grant for operations	931	Grant for operations
Grants	2,000	Investment grant	2,010	Investment grant	1,950	Investment grant	2,007	Investment grant
Debt Write-off	800	Debt reduction grant	800	Debt reduction grant	730	Debt reduction grant	693	Debt reduction grant
Total	3,910		3,848		3,691		3,631	

9.7.7 The financial performance of RFF is presented in the tables below.

Table 108 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	4,798	4,851	0	4,086
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	2,213	2,273	0	2,450
Total subsidisation	1,110	1,038	1,011	931
Wages, Salaries, Social Security Payments	33	40	0	58
Operating costs	4,941	4,468	0	4,094
Operating profit	-143	382	0	-8
Financial expenses	1,965	1,947	0	1,376
P&L on ordinary activities before tax	-654	-128	0	-637
Total fixed assets	2,829	23,231	0	26,688
Long term receivables	0	0	0	0
Total current assets	2,829	3,094	0	5,130
Trade debtors	21	34	0	1,061
Other debtors	2,310	2,434	0	772
Current asset investments	0	0	0	58
Cash at bank and in hand	142	288	0	1,294
Creditors: <1yr (Current Liabilities)	496	509	0	8,509
Creditors: >1yr	30,175	29,951	0	36,467
Provisions for liabilities and charges	113	167	0	35
Equity	2,735	-4,303	0	-13,192
	No. / Km			
Average no. employees	588	691	0	843
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

Table 109 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	4,798	4,851	0	4,086
Net profit (€m)	-654	-128	0	-637
Operating profit (€m)	-143	382	0	-8
Total assets (€m)	5,658	26,325	0	31,819
Profitability				
Operating profit margin	-3%	8%	-	0%
Net margin	-14%	-3%	-	-16%
Return on assets	-12%	0%	-	-2%
Return on equity	-24%	3%	-	5%
Viability ratio	1	1	-	1
Efficiency				
Liabilities / operating costs	6.2	6.9	-	11.0
Cost per staff member (€ '000)	8,403	6,466	-	4,856
Staff costs as a proportion of operating costs	1%	1%	-	1%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	-	28,376	0	41,040
Debt / Total liabilities	-	93%	-	91%
Debt: Equity ratio	-	-6.6	-	-3.1
Quick ratio	5.0	5.4	-	0.4
Current ratio	5.7	6.1	-	0.6
Debt service coverage ratio	-0.1	0.2	-	0.0
Public funding				
Total public income (€m)	1,110	1,038	1,011	931
Public funding / costs	22%	23%	-	23%
Public funding / revenue	23%	21%	-	23%

9.7.8 We have been unable to obtain the 2006 accounts for RFF thus far. However, it is clear from the accounts above that RFF generates significant losses and is heavily indebted, having taken on considerable liabilities from SNCF when it was created in 1997. However, it is subsidised by the state, and the total operating subsidy income for each year represents around almost a quarter of total revenue for each year.

9.7.9 There is a notable change in total debt from 2005 to 2007. This could be attributable to many factors, such as timing, and, therefore, this is not necessarily significant.

9.8 Conclusions

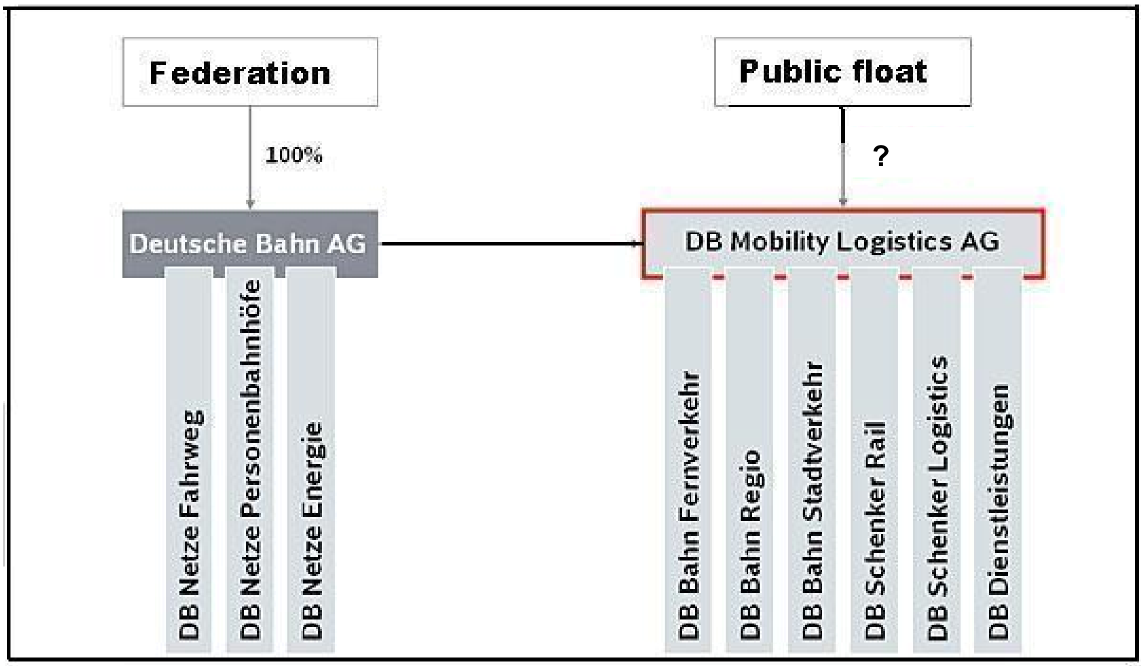
9.8.1 From the information available, we can conclude that:

- The requirements of the accounting separation directives have not been fully transposed into French law. Specifically, we were unable to locate legislation referring to the requirement of rail companies to publish their separated accounts, prohibiting the transfer of public funds between passenger and infrastructure companies, the way in which accounts are kept and the separation of freight accounts.
- SNCF are not wholly compliant with the accounting separation directives as, in their consolidated accounts, there are no separate figures for each PSO contract which they operate and the accounts do not provide details of transactions between the company's infrastructure activities and its transport activities.
- RFF is compliant with the accounting separation directives.
- Both RFF and SNCF have the legal status of an EPIC. This means that they perform a public service and, as such, are implicitly guaranteed by the French State.

10 GERMANY

10.1 Industry overview

10.1.1 In 1994, Germany's largest undertaking in the rail industry, Deutsche Bahn (DB), was separated into a number of entities responsible for rail infrastructure and rail transport. This formed part of a wider reform of the rail sector, which originally involved converting the state-owned companies Deutsche Bundesbahn and Deutsche Reichsbahn into a single joint stock company with a publically owned holding company. Independent companies were set up under the holding company to manage the network infrastructure and passenger stations, regional passenger transport, long distance passenger transport and freight transport (respectively DB Netz, DB Fernverkehr, DB Regio, and Railion (now DB Schenker). Government and Parliament agreed on a new corporate structure for DB under which, all transport subsidiaries were transferred to a new holding company, DB Mobility Logistics AG. This agreement does, in principle, allow for the flotation of a minority share of DB Mobility Logistics AG as indicated below. However, to date the Deutsche Bahn group remains wholly state owned, primarily on the grounds that in the current economic climate, the outcome of an IPO may not meet expectations.



10.1.2 The rail passenger transport market is open to other rail undertakings. The law guarantees non-discriminatory access to all service facilities specified in Annex II No. 2 of Directive 2001/14/EC. Regional rail passenger transport services are separately co-ordinated by the federal states (Länder) on the basis of discretionary awards or tender procedures. Consequently, there are now many other private railway undertakings operating in regional markets although their market shares in comparison to DB are still relatively small.

10.1.3 Since early 2006, the Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen (BNetzA – Federal Network Agency for Electricity, Gas, Telecommunication, Post and Railway) has been responsible for regulating the railway sector and safeguarding non-discriminatory access to the railway infrastructure and the related service facilities. Its powers within the railway sector are stipulated in § 14b to 14f of the AEG (the railiway legislation). A number of these regulatory responsibilities were carried out by the Eisenbahn-Bundesamt (EBA – Federal Railway Office) prior to the transfer to BNetzA. The EBA now has responsibility for ensuring that the industry complies with the stipulations made in § 9 and 9a AEG regarding unbundling.

10.2 List of Railway Undertakings

Passenger	Freight	Infrastructure Manager
DB Fernverkehr AG*	DB Schenker AG (formerly Railion)*	DB Netz AG*
DB Regio AG*	Veolia Cargo Deutschland*	Veolia Cargo Deutschland*
Veolia Verkehr*	Häfen und Güterverkehr Köln AG*	Veolia Verkehr*
Arriva Deutschland GmbH*	TX Logistik*	Arriva Deutschland GmbH*
AKN Eisenbahn AG	HUPAC AG Singen*	
Rutalbahn GmbH		

*railway undertakings with turnover in excess of €50 million per annum.

We will concentrate our analysis primarily on Deutsche Bahn as the group remains the most important transport operator and infrastructure manager in Germany. We will then briefly consider those other railway undertakings which have turnover in excess of €50 million per annum (as shown in the table above). In addition, to those mentioned in the table above there are many other smaller local companies providing passenger and / or freight transport services within specific localised areas of Germany. There are currently 381[209] private railway transport operators registered with the EBA and 298[210] railway infrastructure managers. A comparison of the two registers indicates that 110 of these companies perform infrastructure management and provide transport services.

10.3 Industry Regulator & Government Departments

10.3.1 Ministry of Transport

Bundesministerium für Verkehr, Bau und Stadtentwicklung (BMVBS)

See: http://www.bmvbs.de/

A combined ministry for transport, building and urban affairs has legal responsibility for the rail sector at the national level. However, monitoring of railway operations (infrastructure and transport) and licensing responsibilities lie with the EBA as an administrative body subordinate to the Ministry. Similar ministries exist within the German federal state governments and have responsibility for regional transport matters, including regional public transport.

The table below provides a summary of subsidies provided directly to Deutsche Bahn AG by the Ministry. State governments also grant subsidies, in particular to companies providing regional public transport services. Please note that there are small differences between the amounts shown here (which were provided by

209 http://www.eba.bund.de/cln_015/nn_204044/DE/Infothek/Eisenbahnunternehmen/EVU/evu__node.html
210 http://www.eba.bund.de/cln_015/nn_204046/DE/Infothek/Eisenbahnunternehmen/EIU/eiu__node.html

BMVBS) and the total of the combined subsidies reported in the group's financial statements.

Table 110

Type of grant / *Relevant law*	2004 - 2008 (budgeted figures) 2004	2005	2006	2007	2008	Total
Interest-free loans - *BSchwAG §§ 8-11*[211]	253	95	98	88	95	**629**
€2,000.m transportation program	268	114	165	250	280	**1,077**
BKZ -BSchwAG §§ 8-11, see note (1)	2,432	2,508	2,156	2,288	2,130	**11,514**
BKZ Altlasten DBGrG § 22	0	0	0	0	0	**0**
VIFG rail, see note (2)	247	450	683	954	1,059	**3,393**
Port transportation	0	0	0	0	25	**25**
Noise remediation	52	51	40	53	74	**269**
GVFG-federal program (connecting rural areas)	118	48	63	65	119	**413**
Funds for capital agreement - Bonn/Berlin	16	8	5	0	1	**30**
Civil defence (investment) -*VSG*	2	3	2	1	1	**8**
Sum of subsidies for infrastructure investment	**3,388**	**3,277**	**3,211**	**3,698**	**3,784**	**17,359**
Balance "level crossing" -*VO (EWG) Nr. 1192/69*	83	76	75	78	77	**389**
Civil defence (non-inv.) -*VSG*	7	6	6	7	6	**32**
VSG § 10b	3	1	1	1	1	**6**
Sum of other payments	**93**	**83**	**82**	**86**	**83**	**427**
Total central government funding to DB AG	**3,481**	**3,359**	**3,293**	**3,784**	**3,868**	**17,785**

Notes:

(1) Subsidies for infrastructure investments in railways and railway equipement. The general framework for these investments suggests that they should be used for regional, national and cross border infrastructure projects. However, there is no legal obligation to carry out infrastructure projects as defined by the framework.

(2) Infrastructure investments financed through lorry highway tolls, a proportion of which is dedicated to railway investment. Infrastructure investments may include new developments, expansion of exiting infrastructure and infrastructure replacement.

In addition, Deutsche Bahn receives funding from state governments for those regional passenger services that it provides under public service contracts. The total budget for public service provision of rail services for all German states was €6.7bn in 2008 and this is funded from the central government's budget. This was defined in the second amendment to the law for regionalisation (prime legislation for public financing of regional public transport). These payments from the central government to the various state governments will increase by 1.5% per year in future until a new methodology is introduced some point before 2015.

211 This figure represents the amount of new interest free loans granted in each year

10.3.2 Regulatory Authorities

Bundesnetzagentur (BNetzA)

See: http://www.bundesnetzagentur.de/

The Bundesnetzagentur (or the Federal Network Infrastructure Agency) is a separate federal authority within the German Federal Ministry of Economics and Technology. The Federal Network Agency's task is to ensure further development of the electricity, gas, telecommunications, postal and railway infrastructure markets through liberalisation and deregulation. In order to perform its regulatory duties, the Agency has various procedures and instruments at its disposal including rights to information and investigation as well as the right to impose graded sanctions.

Eisenbahn-Bundesamt (EBA)

See: http://www.eba.bund.de

The EBA (Federal Railway Authority) is an administrative body subordinate to the Ministry of Transport and its responsibilities are set by § 9 AEG. EBA monitors operators' compliance with the general terms and conditions outlined by the law and the regulator. The EBA is responsible within the domestic market for both national and foreign transport operators, and state owned infrastructure companies

In relation to non-state owned infrastructure managers, EBA has responsibilities as agreed with federal state authorities. While in principle, the federal states are responsible for monitoring and licensing rail infrastructure managers in their respective territories, they can choose to transfer this responsibility to the EBA. Currently, 13 states have chosen to do this.

The EBA issues operational licenses on the basis of evidence of reliability, the specialist knowledge of employees, as well as sound financial performance of the company. The EBA is also responsible for making decisions on track access charges and conditions if infrastructure managers and access seekers cannot agree on the terms under which the access is provided

Recent court case between Deutsche Bahn and Eisenbahn-Bundesamt:

In relation to § 9[212] Abs. 1b AEG[213], the Eisenbahn-Bundesamt requested data from DB AG concerning the use and movement of public grants within the DB group during 2006. In Jan 2008, an administrative deed was issued obliging DB AG to pass the necessary data to the Eisenbahn-Bundesamt, however the undertaking has refused to fulfil this obligation and has filed an appeal against the administrative decision with the administrative court that has jurisdiction in this case. The appeal is based on the company's view that such information can only be requested if an initial suspicion of mis-use of public funds is substantiated. Since Aug 2008 the case has been in the hands of the Cologne Administrative

212 § 9 Abs. 1b AEG provides that public funds paid to one of the two areas of activity (business relating to the provision of transport services by railway undertakings / business relating to the management of railway infrastructure) may not be transferred to the other, and that the accounts for the two areas of activity must be kept in a way that reflects this prohibition. This provision applies regardless of whether the cross subsidisation takes place within one undertaking that is both railway undertaking and infrastructure manager or whether it occurs between separate undertakings that belong to the same concern or corporate group.

Court and has yet to to be heard. Until the court case is terminated or the complainant refrains from further appeal, the effect of the administrative decision is suspended. Therefore, the Eisenbahn-Bundesamt is not yet in possession of any relevant data on the subject of the usage and movement of public grants.

10.3.3 Ministry of Finance:

Bundesministerium der Finanzen (BMF)

See: http://www.bundesfinanzministerium.de

According to discussions with representatives from the Ministry of Finance, this government department does not consider itself responsible for any issues relating to the rail sector.

10.4 Legal Framework

10.4.1 In 2005 transposition of the EU directive took place in an amendment to the General Railway Law (Allgemeines Eisenbahngesetz). The EC has since received complaints regarding the manner in which the directive has been implemented[214] and has therefore initiated the first phase of an infringement procedure against Germany. Below we set out an unofficial translation of the relevant part of the Allgemeines Eisenbahngesetz provided by the EBA.

Allgemeines Eisenbahngesetz[215]
§ ***9 - Separate accounting, organisational separation, independent decisions****(1) Public railways,*

1. that are both railway undertakings and infrastructure managers,
2. a) that are railway undertakings only and that are affiliated, via a parent company, with an infrastructure manager that is a public railway,
2. b) or that are infrastructure managers only and that are affiliated, via a parent company, with a railway undertaking that is a public railway, or that
3. as a railway undertaking or an infrastructure manager, are a parent company or a subsidiary in relation to an infrastructure manager or a railway undertaking that is a public railway, shall, even if they are not operated in the legal form of a corporation, draw up, have audited and disclose an annual financial statement and an annual report in accordance with the provisions of Chapter 2 of Book III of the Commercial Code. Where railway undertakings as referred to in sentence 1 are subsidiaries of a parent company required to draw up a consolidated financial statement, section 264 subsections (3) and (4) and section 264b of the Commercial Code are not applicable.

(1a) Public railways as per subsection (1) sentence 1 paragraph 1 shall separate the two areas in their accounting; this includes separate accounts for the provision of transport services and for the operation of rail infrastructure. For both areas referred to in sentence 1 and for any further area they shall draw up, following principles of commercial law, an additional balance sheet and profit and loss account in the notes on their annual financial statement. Where direct allocation to the individual areas is not possible or would involve unreasonable effort, allocation shall take place through an appropriate breakdown of the accounts that is clear for third parties. The notes on the annual financial statement shall state

214 For example, the complaint made by Netzwerk Privatbahnen on 30.05.2006 – see: http://www.netzwerk-privatbahnen.de/pdf/EU-Beschwerde.pdf
215 http://www.gesetze-im-internet.de/aeg_1994/index.html#BJNR239600993BJNE000902301 (German version)

the rules by which the assets and liabilities and the expenditure and income are allocated to the accounts as per sentence 1. Explanatory notes and reasons shall be given for any changes to these rules.

(1b) Public funds for one of the two areas of activity referred to in subsection (1a) sentence 1 may not be passed to the other area. This prohibition shall also be reflected in the accounting for the two areas. This also applies to all undertakings as per subsection (1) sentence 1 paras 2 and 3.

(1c) The two areas of activity referred to in subsection (1a) sentence 1 shall be performed in undertakings as per subsection (1) sentence 1 para 1 in organisationally separate business units. Decisions on access to rail infrastructure and the charges payable shall be made by the business unit operating the infrastructure. § 9a remains unaffected.

(1d) Subsection (1a) applies accordingly to public railway undertakings providing both passenger services and freight services, it being understood that separate accounts and a separate balance sheet and profit and loss account solely for freight traffic be included in the notes on the annual financial statement and that a financial statement can also take the place of the balance sheet. Public funds for transport services provided under a public service obligation shall be entered separately in the accounts and may not be passed to areas of activity concerning other transport services or other business.

(1e) The authorising authority may authorise exemptions from subsections (1), (1a), (1c) and (1d) if the rail network operated by the infrastructure manager is of such minor importance in terms of track length and operating performance that competition is not likely to be impaired. Sentence 1 applies accordingly in respect of other rail infrastructure facilities.

(2) (deleted)

(3) Insofar as and for as long as a public railway undertaking provides transport services both in areas in which public service obligations can be imposed or agreed and in other areas, the requirements of Article 1(5) § 2a and 2b of Council Regulation (EEC) 1191/69 named in section 5(3) § 2 AEG shall be observed. Separate accounts are also required for areas in which public service obligations may be imposed or agreed. These accounts have also, as a minimum, to meet the requirements of cost-earnings accounting and a listing of assets and liabilities according to section 240 of the Commercial Code. Accounting shall cover the same period as the annual financial statements. Subsection (1b) applies accordingly in other respects

10.4.2 In the table below we indicate how the EU directive was transposed to national law. The English wording of the national law does not represent an official translation of the German wording.

Table 111 Transposition of EC Directive 2001/EC/12

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are **kept** (emphasis added)… on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes (1)	Public railways as per subsection (1) sentence 1 paragraph 1 shall separate the two areas in their accounting; this includes separate accounts for the provision of transport services and for the operation of rail infrastructure. For both areas referred to in sentence 1 and for any further area they shall draw up, following principles of commercial law, an additional balance sheet and profit and loss account in the notes to their annual financial statement. Where direct allocation to the individual areas is not possible or would involve unreasonable effort, allocation shall take place through an appropriate breakdown of the accounts that is clear for third parties. The notes to the annual financial statement shall state the rules by which the assets and liabilities and the expenditure and income are allocated to the accounts as per sentence 1. Explanatory notes and reasons shall be given for any changes to these rules. § 9, (1a) …as a railway undertaking or an infrastructure manager, are a parent company or a subsidiary in relation to an infrastructure manager or a railway undertaking that is a public railway, shall, even if they are not operated in the legal form of a corporation, draw up, have audited and disclose an annual financial statement and an annual report in accordance with the provisions of Chapter 2 of Book III of the Commercial Code. § 9, (1)
6.1(a)	Requirement to publish separated accounts	Yes	Please see above
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	Public funds for one of the two areas of activity referred to in subsection (1a) sentence 1 may not be passed to the other area. § 9, (1b)
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	This prohibition must also be reflected in the accounting for the two areas. This also applies to all undertakings as per subsection (1) sentence 1 paras 2 and 3. § 9, (1b)
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	The two areas of activity referred to in subsection (1a) sentence 1 must be performed in undertakings as per subsection (1) sentence 1 para 1 in organisationally separate business units. § 9, (1c)
9.4	In the case of railway undertakings profit and loss accounts and either balance sheets or annual statement of assets and liabilities shall be **kep**t (emphasis added)… for business relating to the provision of rail freight-transport services.	Yes	Subsection (1a) applies accordingly to public railway undertakings providing both passenger and freight services. Separate accounts and a separate balance sheet and profit and loss account solely for freight traffic be included in the notes to the annual financial statement. A statement of assets and liabilities can take the place of the balance sheet instead. § 9, (1d) …as a railway undertaking or an infrastructure manager, are a parent company or a subsidiary in relation to an infrastructure manager or a railway undertaking that is a public railway, shall, even if they are not operated in the legal form of a corporation, draw up, have audited and disclose an annual financial statement and an annual report in accordance with the provisions of Chapter 2 of Book III of the Commercial Code. § 9, (1)
9.4(a)	Requirement to publish separated accounts	Yes	See above.

9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	"Public funds for transport services provided under a public service obligation shall be entered separately in the accounts…" § 9, (1d)
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	"…and may not be passed to areas of activity concerning other transport services or other business." § 9, (1d)

Notes:

(1) Note that, according to the German railway law, all of these requirements may be overridden by an exemption if the associated rail infrastructure is considered to be "of such minor importance in terms of track length and operating performance that competition is not likely to be impaired". To our knowledge, this exemption has only been given to operators who provide "recreational" train services.

(2) Although the transposition does not specify that the separated accounts should be published, we assume that this requirement flows from the reference to commercial law and that the term "disclose" in the second quote means make publicly available.

10.4.3 It is unclear from the legislation who is responsible for overseeing its implementation. There is no reference to a regulator or other body who will perform this function.

10.5 Sources of Information

10.5.1 Laws and regulations:

- Das Allgemeine Eisenbahngesetz (AEG) – English translation obtained from EBA.[216]

10.5.2 Annual accounts:

- Deutsche Bahn: http://deutschebahn.de
- Arriva Deutschland GmbH: http://www.arriva.de
- HGK Köln: http://www.hgk.de
- TX Logistik: http://www.txlogistik.de
- HUPAC AG Chiasso: http://www.hupac.ch/de
- Veolia Verkehr: http://www.veolia-verkehr.de
- Veolia Cargo: http://www.veolia-verkehr.de/tmpl/XStartPage.aspx?id=25820
- Arriva / TX Logistik / Veolia - accounts were obtained from the "Elektronischer Bundesanzeiger": https://www.ebundesanzeiger.de/ebanzwww/wexsservlet

10.5.3 Other information:

- Ministry of Transport: http://www.bmvbs.de/ - provided summary of subsidies.

[216] http://www.gesetze-im-internet.de/aeg_1994/index.html#BJNR239600993BJNE000902301 (German version)

- Federal Railway Agency: http://www.eba.bund.de – provided details about the industry and a translation of the relevant legislation.
- Industry Regulator – Bundesnetzagentur: http://www.bundesnetzagentur.de

10.6 Deutsche Bahn AG

10.6.1 Deutsche Bahn AG (DB AG) is the holding company of the incumbent national rail transport operator and infrastructure manager in Germany. As described earlier, DB group consists of separate entities responsible for infrastructure, freight or passenger transport, all of which are owned by the parent company DB AG. Note that in 2008, all transport and logistics activities were bundled under the umbrella of the newly formed intermediate parent company DB Mobility-Logistics AG (DB ML). The current development plan agreed by government, parliament and DB, includes an option to publicly float 24.9% of the shares of DB ML. While this may take place in the future, there are no plans to implement this yet.

10.6.2 Quality of accounts

The following table summarises our findings regarding the quality of DB AG's financial statements.

Table 112 Quality of accounts

Issue	Quality	Comment
Audit Assurance	Good	The Financial Statements have been audited by PricewaterhouseCoopers AG Wirtschaftsprüfungs-gesellschaft, comprising the income statement, balance sheet, equity statement, cash flow statement and the notes to the financial statements. PricewaterhouseCoopers conducted the audit of the financial statement in accordance with § 317 HGB and German generally accepted standards for the audit of financial statements promulgated by the Auditors Institute (IDW).
Transparency	Good	DB AG accounts show a generally good level of detail in accordance with the requirements of German commercial law.
Visibility of transfers from other rail businesses	Partial	While visibility of transfers is less relevant for the holding company, transfers between DB AG's subsidiaries in relation to goods and services are documented as part of an annex to the consolidated group accounts. (1)
Visibility of intra-group transfers	Partial	Sources and destinations of intra-group transfers are not visible from DB AG accounts but can be identified through individual subsidiaries' annual reports.

10.6.3 The table below outlines transfers for services and goods between DB AG subsidiaries.

Table 113 Intra-group service matrix (2007)

Service / Subsidiary	DB Fern-verkehr	DB Regio	Local public transport	DB freight services	Schenker	Tracks	Stations	Services	Electricity	Others
Track usage	-740	-1,927	-173	-497	0	3,339	0	-1	0	-1
Use of infrastructure (other than tracks)	-19	-42	473	177	0	203	0	-1	-1	0
Stations	-92	-396	454	175	0	0	586	0	0	0
Electricity	-286	-625	517	179	-3	-112	-62	-10	1,598	-11

Source: DB AG consolidated financial statements, Additional information, Development of investment grants, P. 234

10.6.4 Compliance with the Directive

The following table provides an overview of the company's compliance with the directive.

Table 114 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	DB Netz AG, DB Regio AG, DB Fernverkehr AG and DB Schenker (previously DB Railion) which all provide railway transport services are legally separate from DB Netz which is the infrastructure manager and publish separate accounts which include profit & loss accounts and balance sheets. All entities are legally separate subsidiaries of DB AG which functions as a holding company.
6.1(a)	Requirement to publish separated accounts	Yes	The accounts are available for download from the company website.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	Subsidiaries of DB AG receive public state, federal and European funding. While individual types of public funding are usually attributable to a specific purpose, detailed information on what specific projects the funds are used for are not provided. According to Deutsche Bahn, structural separation prevents cross subsidisation between DB Netz and any of the Deutsche Bahn rail operating companies. "The transfer of public funds between infrastructure manager and railway undertaking is forbidden pursuant to § 9 paragraph 1b AEG, DB's compliance with this provision is constantly monitored by the Federal Railway

			Authority (Eisenbahn Bundesamt – EBA)”.[217] However, note that due to a controlling and profit transfer agreement (1.July 1999)218 DB AG subsidiaries transfers profit to as well as having their losses covered by DB AG. However, we have not encountered any evidence suggesting the transfer of public funding is occurring.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by DB AG. Please see chapter 29 for further information on the requisite information. The consolidated group accounts do however provide a breakdown of the development of investment grants (1) as well as a detailed description of the most important types of public grants and subsidies (2).
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	The infrastructure manager and the rail transport operators are legally separate entities under the ownership of the same holding company.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	Separate annual accounts are provided by all relevant group subsidiaries.
9.4(a)	Requirement to publish separated accounts	Yes	Separate annual accounts are provided by all relevant group subsidiaries.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	Separate annual accounts are provided by all relevant group subsidiaries.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	Separate annual accounts are provided by all relevant group subsidiaries.

(1) The table below provides an overview of the development of investments grants to DB AG subsidiaries as outlined in DB AG consolidated financial statements. We understand that this does not form a part of the financial statements that DB AG is legally obliged to have audited. Without further underlying information we do not consider this to be sufficient to assess the use of the funding.

Table 115 Development of DB AG investments grants

Development of investment grants for fixed assets €million	Beginning value as of Jan 1, 2007	Fund inflow	Use of funds	Cancellations	End value as of Dec 31, 2007
Deutsche Bahn AG	**39,197**	**4,167**	**12**	**-170**	**43,206**

217 DB response to study questionnaire
218 For example, see DB Netz annual financial statement 2007, p. 52

DB Station & Service AG	3,291	255	0	-12	3,534
DB Netz AG	35,379	3,839	-5	-153	39,060
DB Energie GmbH	527	73	17	-5	612

Source: DB AG consolidated financial statements, Additional information, Development of investment grants, P. 235

(2) DB AG consolidated statements provide an overview of the type of grants and subsidies DB subsidiaries receive. While the type of grants DB AG receives generally appear purpose specific, no further information is provided to help identify the use of the funding. We understand that the section where this information is provided does not form part of the audited information DB AG is legally obliged to provide by German commercial law.

Table 116 Summary of grants to DB AG

Title	Comment
Grants from third parties-diminishing the costs of purchase or manufacture	These contributions from third parties relate to capital expenditures and after being paid in are netted with fixed assets. These are essentially grants from the accounting of rail crossing measures between road and rail according to the Railway Crossing Act (Eisenbahnkreuzungsgesetz; EKrG).
Grants under the Municipal Transport Financing Act (except Federal Government)	Grants under the Municipal Transport Financing Act (Gemeindeverkehrsfinanzierungsgesetz; GVFG) are provided by the Federal state authorities in supplement to Federal Government financing and are up to 40% of the approved costs for "Investments for improving transport in municipalities" in the meaning of section 1 GVFG. Furthermore, a planning costs flat rate of 7% on the total costs eligible for grant is also generally paid. But other percentages can also be agreed bilaterally with the Federal states.
Federal Government grants - noise reduction	The Federal Government allocates contributions for "measures to reduce noise on existing rail paths operated by the Federal Government railways:' Grants are paid for active acoustic insulation (investments = acoustic insulation walls) if the noise level exceeds specific emission values.
Federal Government grants VIFG funds (Transport Infrastructure Financing Company)	These are grants for investments in the Federal Government railways and are provided through the Transport Infrastructure Financing Corporation (Verkehrsinfrastrukturfinanzierungs-gesellschaft; VIFG). These funds are intended for rail infrastructure measures and are provided out of revenues derived from the route-related truck road tolls through the newly founded Federal Government Financing Company (Finanzierungsgesellschaft des Bundes).

Federal Government grants - special burdens due to past underinvestment	The Federal Government made grants for special burdens due to past underinvestment in accordance with section 22 (1) no. 2 Deutsche Bahn Foundation Act (Deutsche Bahn Gründungsgesetz; DBGrG) to recuperate investments in the tangible assets and to modernize existing asset items of the former Deutsche Reichsbahn (former East German Railway), bringing the rail network and the entire railway infrastructure up to the same standards. Grant of the funds was limited to nine years as of the date of commencement of business by DB AG and ended as of December 31, 2002. Because the overall budget was not reached in the stated agreed time period, after the Federal statutory regulation became void the Federal Government, the new Federal states/ free states and Deutsche Bahn resolved a new "joint declaration for further reduction of the legacy investments in the area of the former special assets of DR as of the year 2003": Amongst other things, this stipulated that the not yet exhausted Federal Government funds would be granted according to the regulations of the Federal Railway Infrastructure Development Act (Bundesschienenwegeausbaugesetz; BschwAG) as non-repayable construction grants in order to reduce the underinvestment burdens by the year 2007.
Federal Government grants - civil defense	Federal grants are provided here for tasks to which the Bahn is obligated by the Ministry of Transport pursuant to section 10a Transport Provision Act (Verkehrssicherstellungsgesetz; VSG) for civil defense purposes.
Federal Government grants - Municipal Transport Financing Act (local public passenger transport)	These Federal grants concern contributions by the Federal Government pursuant to section 11 GVFG for an amount up to 60 % of the costs eligible for grants. Investment grant portions according to GVFG are basically capitalized and deducted from the acquisition or manufacturing costs, and expenditure grants are booked to revenues in the proper accounting period. The Federal Railway Authority (Eisenbahnbundesamt; EBA) has approved this. Apart from the Federal Government funds according to GVFG, these Federal Government grants also cover grants from the so-called Capital City Contract (Hauptstadtvertrag) of 1994 and under which the Federal Government participates in the additional costs that arose from developing the government and parliament district.
Federal Government grants - Federal Railway Infrastructure Development Act	Federal Government costs grants are provided here pursuant to section 8 BSchwAG for investments in new construction or expansion of rail lines, or for replacement investments on the existing Federal railway lines. The individual projects taken into the "Requirements plan for Federal railways" (Bedarfsplan für die Bundesschienenwege) for realization - in coordination with the Federal Transport Route Plan (Bundesverkehrswegeplan; BVWP) - are contained in the Annex to section 1 BSchwAG. Furthermore, the Federal Government grants funds from the €2 billion transport program to improve the transport infrastructure under an own budget heading. These were resolved in the government cabinet as contributions strengthening economic development for the years 2005 through 2008. The program is intended to ensure that urgent transport investments can be realized.

Future Investment Program (Zukunftsinvestitionsprogramm; ZIP)/UMTS funds	These Federal Government grants were provided on the basis of the "Joint Declaration of the Federal Republic of Germany, represented by the Ministry of Transport and the Ministry of Finance and DB AG on the scope of rail investments in the years 2001 through 2003" (trilateral agreement). The funds originate from the sale of UMTS wireless licenses and were primarily intended for quality enhancement measures on the existing rail network by "remedying slow-speed track sections and the short-term and tangible modernization of the signal and safety engineering" As from the 2006 financial year, there is no longer any own Federal budget heading and funds are no longer drawn. The residual positions are wound up under the heading "BSchwAG".
Federal Government grants – mandatory rail lines	These grants are contributions by the Federal Government for obligations of Deutsche Bahn under section 10 b VSG in conjunction with section 23 VSG to provide rail infrastructure for certain routes. Statutory basis is the EEC Ordinance 1191/69.
Grants – EU funds	The European Union grants Deutsche Bahn EU funding on special application and under observance of certain substantiation obligations. Grants allocated here include such for the so-called Trans-European Networks (TEN funds). European Union grants for trans-European networks are also provided for the project "European Rail Traffic Management System (ERTMS)" or "European Train Control System (ETCS)". In addition, the EU also provides financing grants from the so-called EFRD (European Funds for Regional Development). A prerequisite for such a grant is a joint promotion concept prepared by the member state and approved by the EU Commission.

Source: DB AG consolidated financial statements, Additional information, Development of investment grants, P. 235-237

10.6.5 The DB Holding operational revenues largely consist of intra-group transfers (€740m in 2007 with similar amounts in all other years) and in 2007 amounts from sales of fixed assets (€1,030m). Other income stems from property (€231m in 2007), 3rd party services, sales of stock (€189 in 2007), and "other operational revenues (€114m in 2007).

10.6.6 The group accounts do not show any direct public funding being paid to DB's parent company. However, they do indicate that DB AG's net financial income was primarily made up of income received or payments made in relation to profit transfer agreements with its subsidiaries as well as interest received and paid on intercompany loans with its subsidiaries.

	2007	2006
Income from profit transfer agreements with subsidiaries	€1,348m	€1,315m
Expenditure due to profit transfer agreements with subsidiaries	(€170m)	(€326m)
Income from other securities and long term loans from affiliated companies	€491m	€510m
Interest and similar expenses to affiliated companies	(€494m)	(€460m)

Note 19 & 20, DB AG's annual report 2007

10.6.7 The following sections cover the individual infrastructure and transport companies owned by DB AG.

10.7 DB Netz AG

10.7.1 DB Netz is the infrastructure manager within the Deutsche Bahn group and manages approximately 90% of the German rail network. This equates to around 34,000 km of track, meaning that DB Netz manages the largest railway network in Europe. However, there are 297 further small rail companies registered with the EBA which operate their own infrastructure.

10.7.2 Quality of accounts

The following table summarises our findings regarding the quality of DB Netz's financial statements.

Table 117 Quality of accounts

Issue	Quality	Comment
Audit Assurance	Good	**PricewaterhouseCoopers AG Auditors:** The Financial Statements have been audited by PricewaterhouseCoopers AG Wirtschaftsprüfungs-gesellschaft, comprising the income statement, balance sheet, equity statement, cash flow statement and the notes to the financial statements. The financial statements were prepared in accordance with IFRS, as adopted by the EU, and the additional requirements of German Commercial Law pursuant to § 315a (1) HGB and are within the responsibility of the parent Company's Board of Managing Directors. PricewaterhouseCoopers conducted the audit of the financial statement in accordance with § 317 HGB and German generally accepted standards for the audit of financial statements promulgated by the Auditors Institute (IDW).[219]
Transparency	Good	DB Netz AG accounts show a generally good level of detail in accordance with the requirements of IFRS and German commercial law.
Visibility of transfers from other rail businesses	Partial (i)	The accounts separately disclose revenues from track access charges. However, this is not analysed by transport type (passenger or freight) or by operator. Further details on the source of track access charges can however be found in the holding company's (DB AG) annual report. This includes a breakdown of track charges paid by DB transport subsidiaries to DB Netz (see also Table 113).
Visibility of intra-group transfers	Poor	Transfers in relation to goods and services made between companies within the group are not documented within the annual reports for 2004 to 2007. The group's annual reports however provide a more detailed summary of monetary transfers made between group companies.

[219] For example, see DB Netz annual financial statement 2007, p 54

Notes:

(i) See table below.

Table 118 Breakdown of infrastructure charge origination (2004 – 2007)

	DB transport subsidiaries				Other	Total
Year	**DB Fernverkehr**	**DB Regio**	**Other freight**	**Other**		
2007	740	1,927	497	175	453	3,792
2006	715	1898	473	177	389	3652
2005	712	1966	454	175	342	3649
2004	714	2001	517	179	227	3638

10.7.3 Compliance with the Directive

The following table provides an overview of the company's compliance with the directive.

Table 119 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	DB Netz AG, DB Regio AG, DB Fernverkehr AG and DB Schenker (previously DB Railion) which all provide railway transport services are legally separate from DB Netz which is the infrastructure manager and publish separate accounts which include profit & loss accounts and balance sheets.
6.1(a)	Requirement to publish separated accounts	Yes	The accounts are available for download from the company website.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	DB Netz AG receives public state, federal and European funding. While individual types of public funding are usually attributable to a specific purpose, detailed information on what specific projects the funds are used for are not provided. According to Deutsche Bahn, structural separation prevents cross subsidisation between DB Netz and any of the Deutsche Bahn rail operating companies. "The transfer of public funds between infrastructure manager and railway undertaking is forbidden pursuant to § 9 paragraph 1b AEG, DB's compliance with this provision is constantly

			monitored by the Federal Railway Authority (Eisenbahn Bundesamt – EBA)".[220] However, note that due to a controlling and profit transfer agreement (1.July 1999)221 DB Netz transfers any profit that it generates to its parent company (DB AG). A loss on the other hand would be offset by a transfer from DB AG. Track access charges are paid by all of the rail service operators to DB Netz. It is not possible to tell from the individual accounts whether these reflect the associated costs or not. However, we have not encountered any evidence suggesting the transfer of public funding is occurring.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. Since profits or losses are balanced with the holding company, DB Netz AG is principally compliant with the directive. However, further analysis would be required to assess whether charges between operators for products are services are compliant with the directive. We consider the level of detail provided by the accounts as insufficient to allow such analysis. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	The infrastructure manager and the rail transport operators are legally separate entities under the ownership of the same holding company.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	DB Netz only manages rail infrastructure.
9.4(a)	Requirement to publish separated accounts	Yes	DB Netz only manages rail infrastructure.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	DB Netz does not provide any rail transport services and therefore does not receive any PSO funding.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	DB Netz does not provide any rail transport services and therefore does not receive any PSO funding.

10.7.4 The structure of the company and group make it generally compliant with the requirements to have separate accounts and structural separation. However, in

220 DB response to study questionnaire

221 For example, see DB Netz annual financial statement 2007, p. 52

our view, the company's public reports do not provide sufficient information to prohibit and monitor the transfer of subsidies to other group members.

10.7.5 The following table provides a summary of public funding as reported in the companies financial statements.

Table 120 Company summary of public fundings

Year	2004		2005		2006		2007	
Type	Amount	Source	Amount	Source	Amount	Source	Amount	Source
Loans (m€) see note (1)	5,512	Interest free loans for infrastructure investment	5,261	Interest free loans for infrastructure investment	5,027	Interest free loans for infrastructure investment	4,816	Interest free loans for infrastructure investment
Grants (m€) see note (2)	3,392	Infrastructure investment subsidies	3,377	Infrastructure investment subsidies	3,206	Infrastructure investment subsidies	3,839	Infrastructure investment subsidies
Grants (m€)	166	Other investment subsidies	109	Other investment subsidies	185	Other investment subsidies	142	Other investment subsidies
Grants (m€) see note (3)	82	EWG-VO Nr. 1192/69	74	EWG-VO Nr. 1192/69	71	EWG-VO Nr. 1192/69	76	EWG-VO Nr. 1192/69

Source: DB Netz AG's financial statements

Notes:

(1) This represents the current level of debt, which consists of interest-free loans. The annual change is made up of new interest free loans granted by the government less amounts repaid.

(2) The majority of these grants are not recognised as income and are deducted from the relevant asset values at the time those assets are capitalised.

(3) Regulation (EEC) No 1192/69 of the Council of 26 June 1969 on common rules for the normalisation of the accounts of railway undertakings.

10.7.6 Performance

Table 121: Summary financial and operational data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	5,102	5,072	5,160	5,558
Revenue from infrastructure charges	3,638	3,649	3,652	3,792
Total subsidisation	248	183	256	218
Other revenue	1,216	1,240	1,252	1,548
Wages, Salaries, Social Security Payments	1,798	1,663	1,641	1,581
Operating costs	5,046	5,025	5,041	5,077
Operating profit	56	47	119	481
Financial expenses	(239)	(307)	(331)	(335)
P&L on ordinary activities before tax	(183)	(260)	(212)	146
Total fixed assets	20,932	20,975	20,290	21,463
Long term receivables	-	2	2	30
Total current assets	756	745	760	1,080
Trade debtors	89	92	111	171
Other debtors	319	329	335	578
Current asset investments	-	-	-	-
Cash at bank and in hand	6	13	18	27
Creditors: <1yr (Current Liabilities)	1,968	1,865	2,412	2,547
Creditors: >1yr	10,979	10,651	10,207	10,079
Provisions for liabilities and charges	2,393	2,324	1,610	2,400
Equity	5,115	5,731	5,753	6,545
	No. / Km			
Average no. employees	42,702	39,163	37,565	36,058
Managed kilometers	34,722	34,150	34,128	33,897

Source: DB Netz AG's financial statements

Table 122: Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	5,102	5,072	5,160	5,558
Net profit (€m)	(183)	(260)	(212)	146
Operating profit (€m)	56	47	119	481
Total assets (€m)	21,688	21,722	21,052	22,573
Profitability				
Operating profit margin (%)	1.1%	0.9%	2.3%	8.7%
Net margin (%)	-3.6%	-5.1%	-4.1%	2.6%
Return on assets (%)	-0.8%	-1.2%	-1.0%	0.6%
Return on equity (%)	-3.6%	-4.5%	-3.7%	2.2%
Viability ratio	1.01	1.01	1.02	1.09
Efficiency				
Liabilities / operating costs	3.04	2.95	2.82	2.96
Cost per staff member (€'000)	118	128	134	141
Staff costs as a proportion of operating costs (%)	35.6%	33.1%	32.6%	31.1%
Unit operating costs (€'000)	145.3	147.1	147.7	149.8
Total Revenue per Managed Km (€'000)	104.78	106.85	107.01	111.87
Indebtedness				
Total debt of the company (€m)	11,262	11,027	11,165	11,228
Debt / Total liabilities	73.4%	74.3%	78.5%	74.7%
Debt: Equity ratio	2.20	1.92	1.94	1.72
Quick ratio	0.21	0.23	0.19	0.30
Current ratio	0.38	0.40	0.32	0.42
Debt service coverage ratio	-0.23	-0.15	-0.36	-1.44
Public funding				
Total public income (€m)	248	183	256	218
Public funding / costs (%)	4.9%	3.6%	5.1%	4.3%
Public funding / revenue (%)	4.9%	3.6%	5.0%	3.9%

Source: DB Netz's financial statements, Frontier analysis

10.7.7 Public funding appears to represent a small proportion of revenues. As described earlier, the majority of the public funding does not appear in the P&L as it is directly deducted from the book value of subsidised asset investments. The majority of revenue is generated from infrastructure charges. However, a significant amount of income, €1.5bn in 2007, is generated from other activities. Company losses incurred in 2004 to 2006 were balanced by payments from the holding company. And the company profit in 2007 was transferred entirely to DB group. The above summary does not include these transfers of profit between DB Netz and the holding company.

10.7.8 Staff costs have declined slightly as a proportion of operating costs, while costs per staff member have increased, and the number of personnel declined. Overall unit costs are increasing which would suggest the company could be becoming slightly less efficient – i.e. operating costs are fairly stable, even though the amount of track being managed has declined.

10.7.9 The operating and net profit margins increased over the period. This is based on an increase in revenues rather than decreasing costs. While infrastructure charges only increased slightly (up by 4%), the majority of the increase stems from other activities (up by 11%). This increase also turns the 2007 net profit margin positive.

10.7.10 Debt and equity are reasonably well balanced, but relative indebtedness has declined, due to an increase in the value of equity. The current and quick ratio are very low so the company would have difficulty meeting its short-term liabilities.

10.8 DB Fernverkehr AG

10.8.1 DB Fernerkehr AG is one of the passenger transport operators within the Deutsche Bahn group. The company operates national long haul and international passenger routes. It was previously owned directly by DB. In 2008, the ownership of DB Fernverkehr AG was transferred, along with all DB's other transport subsidiaries, to DB Mobility-Logistics AG.

10.8.2 Quality of accounts

Table 123 Quality of accounts

Issue	Quality	Comment
Audit Assurance	Good	**PricewaterhouseCoopers AG Auditors:** The Financial Statements have been audited by PricewaterhouseCoopers Aktiengesellschaft Wirtschafts-prüfungsgesellschaft, comprising the income statement, balance sheet, equity statement, cash flow statement and the notes to the financial statements. The financial statements were prepared in accordance with IFRS, as adopted by the EU, and the additional requirements of German Commercial Law pursuant to § 315a (1) HGB and are within the responsibility of the parent Company's Board of Managing Directors. PricewaterhouseCoopers conducted the audit of the financial statement in accordance with § 317 HGB and German generally accepted standards for the audit of financial statements promulgated by the Auditors Institute (IDW).[222]
Transparency	Good	DB Fernverkehr AG accounts show a generally good level of detail in accordance with the requirements of IFRS and German commercial law.
Visibility of Public Funding	Good	DB Fernverkehr AG receives a small amount of investment related public funding. The source and legal basis of these subsidies is not published.
Visibility of transfers to and from other rail businesses	Partial	Track access charge payments to infrastructure managers are not reported separately. However, all track access payments to DB Netz AG are diclosed in the annual report of DB group. Track access payments made by DB Fernverkehr to other infrastructure managers are also not disclosed, but are likely to be relatively small.
Visibility of intra-group transfers	Good	Transfers in relation to goods and services made between companies within the group are not documented within the annual reports for 2004 to 2007. The group's annual reports however provide a more detailed summary of monetary transfers for goods and services between group companies.

10.8.3 Compliance with the Directive

Table 124 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway	Yes	DB Fernverkehr AG, which provides only long-distance passenger rail

[222] For example, see DB Fernverkehr annual financial statement 2007, p 49

	undertakings and infrastructure managers		services, is legally separate and publishes separate accounts which include a profit & loss account and balance sheet. These are available for download on their website.
6.1(a)	Requirement to publish separated accounts	Yes	The accounts are available for download
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	DB Fernverkehr receives very little public funding, only some investment subsidies which appear to be generally available to all industries. According to Deutsche Bahn, structural separation prevents cross subsidisation between DB Netz and any of the Deutsche Bahn rail operating companies. "The transfer of public funds between infrastructure manager and railway undertaking is forbidden pursuant to § 9 paragraph 1b AEG, DB's compliance with this provision is constantly monitored by the Federal Railway Authority (Eisenbahn Bundesamt – EBA)".[223] However, note that due to a controlling and profit transfer agreement (1.July 1999)[224] DB Fernverkehr transfers any profit that it generates to its parent company (DB AG). A loss on the other hand would be offset by a transfer from DB AG. In addition, track access charges are paid by all of the rail service operators to DB Netz. It is not possible to tell from the accounts whether these reflect the associated costs or not. However, we have not encountered any evidence suggesting the transfer of public funding is occurring.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. Since profits or losses are balanced with the holding company, DB Fernverkehr AG is principally compliant with the directive. However, further analysis would be required to assess whether charges between operators for products are services are compliant with the directive. We consider the level of detail provided by the accounts as insufficient to allow such analysis. Please see chapter 29 for further information on the

223 DB response to study questionnaire

224 For example, see DB Fernverkehr annual financial statement 2007, p 48

			requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	DB Fernverkehr AG is legally separate from the infrastructure manager DB Netz AG.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	DB Fernverkehr AG only provides long-distance passenger transport services.
9.4(a)	Requirement to publish separated accounts	Yes	DB Fernverkehr AG only provides long-distance passenger transport services.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	DB Fernverkehr AG only provides long haul passenger transport and does not operate under any PSOs.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	DB Fernverkehr AG only provides long haul passenger transport and does not operate under any PSOs.

10.8.4 Public funding

The level of subsidies received by DB Fernverkehr AG is relatively small. Over the course of the four years covered in this study, only €15m was received in the form of general investment subsidies.

Table 125 Company summary of public fundings

Year	2004		2005		2006		2007	
Type	Amount	Source	Amount	Source	Amount	Source	Amount	Source
Grants (m€)	0	Investment subsidies	6	Investment subsidies	1	Investment subsidies	8	Investment subsidies

Source: DB Fernverkehr's financial statements

10.8.5 Performance

Table 126: Summary financial and operational data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	2,929	3,122	3,303	3,382
Passenger revenue	2,539	2,781	2,972	3,012
Total subsidisation	-	6	1	8
Wages, Salaries, Social Security Payments	599	574	597	586
Operating costs	3,172	3,081	3,199	3,251
Operating profit	(243)	41	104	131
Financial expenses	54	31	36	36
P&L on ordinary activities before tax	288	22	84	121
Total fixed assets	3,161	3,067	3,011	2,815
Long term receivables	-	-	-	-
Total current assets	471	375	367	748
Trade debtors	23	19	24	41
Other debtors	400	310	297	661
Current asset investments	-	-	-	-
Cash at bank and in hand	-	-	-	-
Creditors: <1yr (Current Liabilities)	491	343	346	621
Creditors: >1yr	500	445	334	157
Provisions for liabilities and charges	596	609	653	697
Equity	2,045	2,045	2,045	2,082
	No. / million Km			
Average no. employees	14,658	13,764	13,492	13,643
Passenger-kilometres (m.)	30,000	31,400	32,200	32,000

Source: DB Fernverkehr AG's financial statements

Table 127: Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	2,929	3,122	3,303	3,382
Net profit (€m)	288	22	84	121
Operating profit (€m)	(243)	41	104	131
Total assets (€m)	3,632	3,442	3,378	3,563
Profitability				
Operating profit margin (%)	-8.30%	1.31%	3.15%	3.87%
Net margin (%)	9.83%	0.70%	2.54%	3.58%
Return on assets (%)	7.93%	0.64%	2.49%	3.40%
Return on equity (%)	14.08%	1.08%	4.11%	5.81%
Viability ratio	0.92	1.01	1.03	1.04
Efficiency				
Liabilities / operating costs	0.50	0.45	0.42	0.45
Cost per staff member (€'000)	216.4	223.8	237.1	238.3
Staff costs as a proportion of operating costs (%)	18.9%	18.6%	18.7%	18.0%
Unit operating costs (€'000)	105.7	98.1	99.3	101.6
Total Revenue per Passenger Km (€)	0.08	0.09	0.09	0.09
Indebtedness				
Total debt of the company (€m)	873.0	613.0	573.0	694.0
Debt / Total liabilities (%)	55.0%	43.9%	43.0%	47.1%
Debt: Equity ratio	0.43	0.30	0.28	0.33
Quick ratio	0.86	0.96	0.93	1.13
Current ratio	0.96	1.09	1.06	1.20
Debt service coverage ratio	-4.50	1.32	2.89	3.64
Public funding				
Total public income (€m)	0.0	6.0	1.0	8.0
Public funding / costs (%)	0.00%	0.19%	0.03%	0.25%
Public funding / revenue (%)	0.00%	0.19%	0.03%	0.24%

Source: DB Fernverkehr AG's financial statements, Frontier analysis

10.8.6 Revenues have increased by approximately 15% during the period and passenger – kilometres have also increased by approximately 6% but revenue per passenger – kilometre has remained stable. As explained public funding is very low and represents a small proportion of revenues. The operating profit margin has improved consistently over the period, implying that operating profits have grown faster than revenues. Unit costs dropped quite a lot in 2005 but have picked up again since although are still lower now than in 2004, in spite of the increase in passenger-kilometres. There has been an increase in costs per staff member, although staff costs have remained a similar proportion of operating costs. At the same time, the number of personnel declined.

10.8.7 The net margin fell significantly in 2005 but has increased again since then, as has the return on the asset base. The net profits made between 2005 and 2007 would have been transferred to the holding company, under the control and profit transfer agreement. The above summary does not include these transfers of profit between DB Netz and the holding company. The indebtedness of the company is particularly low and debt represents about a third of the value of the company's equity. The current and the quick ratios are both above unity by the end of the period, implying that the company would be able to meet its short-term liabilities.

10.9 DB Regio AG

10.9.1 DB Regio AG is one of the passenger transport operators within the DB group of companies. It provides regional and local passenger transport services primarily on the basis of public service obligations on behalf of federal state governments. While historically, public service obligations have been awarded directly to DB Regio, new contracts are usually awarded based on the outcome of a competitive process.

10.9.2 Quality of accounts

The following table provides a summary of our findings on the quality of the accounts.

Table 128 Quality of accounts

Issue	Quality	Comment
Audit Assurance	Good	**PricewaterhouseCoopers AG Auditors:** The Financial Statements have been audited by PricewaterhouseCoopers Aktiengesellschaft Wirtschafts-prüfungsgesellschaft, comprising the income statement, balance sheet, equity statement, cash flow statement and the notes to the financial statements. The financial statements were prepared in accordance with IFRS, as adopted by the EU, and the additional requirements of German Commercial Law pursuant to § 315a (1) HGB and are within the responsibility of the parent Company's Board of Managing Directors. PricewaterhouseCoopers conducted the audit of the financial statement in accordance with § 317 HGB and German generally accepted standards for the audit of financial statements promulgated by the Auditors Institute (IDW).[225]
Transparency	Good	DB Regio AG accounts show a generally good level of detail in accordance with the requirements of IFRS and German commercial law.
Visibility of Public Funding	Partial	DB Regio AG receives public funding from the German "Federal States". The financial statements only disclose the total funds received. Hence, it is not clear how much was received from individual state governments or in relation to separate PSO contracts.
Visibility of transfers to and from other rail businesses	Partial	Track access charge payments to infrastructure managers are not reported separately. However, all track access payments to DB Netz AG are diclosed in the annual report of DB group. Track access payments made by DB Regio to other infrastructure managers are also not disclosed, but are likely to be relatively small.
Visibility of intragroup transfers	Good	Transfers in relation to goods and services made between companies within the group are not documented within the annual reports for 2004 to 2007. The group's annual reports however provide a more detailed summary of monetary transfers made between group companies.

225 For example, see DB Regio annual financial statement 2007, p 58

10.9.3 Compliance with the Directive

The following table provides an overview of the company's compliance with the directive.

Table 129 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	DB Regio AG, which only provides regional passenger transport services, is legally separate and publishes separate accounts which include a profit & loss account and balance sheet. These are available for download on their website.
6.1(a)	Requirement to publish separated accounts	Yes	The accounts are available for download
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	DB Regio receives public funding from state governments for fulfilling PSO contracts. While individual types of public funding are usually attributable to a specific purpose, detailed information on what specific projects the funds are used for are not provided. According to Deutsche Bahn, structural separation prevents cross subsidisation between DB Netz and any of the Deutsche Bahn rail operating companies. "The transfer of public funds between infrastructure manager and railway undertaking is forbidden pursuant to § 9 paragraph 1b AEG, DB's compliance with this provision is constantly monitored by the Federal Railway Authority (Eisenbahn Bundesamt – EBA)".[226] However, note that due to a controlling and profit transfer agreement[227] DB Regio transfers any profit that it generates to its parent company (DB AG). A loss on the other hand would be offset by a transfer from DB AG. In addition, track access charges are paid by all of the rail service operators to DB Netz. It is not possible to tell from the accounts whether these reflect the associated costs or not. However, we have not encountered any evidence suggesting the transfer of public funding is occurring.

226 DB response to study questionnaire

227 For example, see DB Fernverkehr annual financial statement 2007, p 48

6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. Since profits or losses are balanced with the holding company, DB Regio AG is principally compliant with the directive. However, further analysis would be required to assess whether charges between operators for products and services are compliant with the directive. We consider the level of detail provided by the accounts as insufficient to allow such analysis. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	DB Regio AG is legally separate from the infrastructure manager DB Netz AG.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	DB Regio AG only provides regional passenger transport services.
9.4(a)	Requirement to publish separated accounts	Yes	DB Regio AG only provides regional passenger transport services.
9.4	Funds for PSO transport activities shown separately in accounts	No	DB Regio AG only reports the total amount of public funding for PSOs. The information is not spilt further by state or specific PSO contract.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	It is not clear how the transfer of subsidies could be monitored given the current structure of the financial statements which reflects the German statutory accounting requirements. Hence we have not encountered any evidence suggesting the transfer of public funding is occurring.

10.9.4 Public funding

DB Regio receives subsidies primarily in relation to operating otherwise unprofitable regional passenger routes. These subsidies are paid by the federal state governments. DB Regio also receives a small amount of subsidies for investments.

Table 130 Company summary of public fundings

Year	2004		2005		2006		2007	
Type	Amount	Source	Amount	Source	Amount	Source	Amount	Source
Grants (m€)	3,373	Federal state compensation for service provision	3,334	Federal state compensation for service provision	3,419	Federal state compensation for service provision	3,403	Federal state compensation for service provision
Grants (m€)	95	Investment subsidies	34	Investment subsidies	46	Investment subsidies	55	Investment subsidies

Source: DB Regio AG, Financial statements

10.9.5 Performance

Table 131: Summary financial and operational data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	5,243	5,242	5,496	5,440
Passenger revenue	1,403	1,582	1,720	1,782
Total subsidisation	3,468	3,368	3,465	3,458
Wages, Salaries, Social Security Payments	845	865	886	862
Operating costs	4,850	4,832	4,936	5,129
Operating profit	393	410	560	311
Financial expenses	50	57	51	51
P&L on ordinary activities before tax	509	545	725	503
Total fixed assets	3,972	4,166	4,080	4,176
Long term receivables	-	-	-	-
Total current assets	256	275	315	397
Trade debtors	49	38	58	82
Other debtors	163	190	207	265
Current asset investments	-	-	-	-
Cash at bank and in hand	-	-	-	-
Creditors: <1yr (Current Liabilities)	1,149	941	1,026	973
Creditors: >1yr	627	976	907	753
Provisions for liabilities and charges	688	760	699	1,025
Equity	1,764	1,764	1,764	1,823
	No. / Km			
Average no. employees	21,388	20,847	20,270	19,520
Passenger-kilometres (m.)	21,300	23,700	25,400	25,600

Source: DB Regio AG's financial reports

Table 132: Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	5,243	5,242	5,496	5,440
Net profit (€m)	509	545	725	503
Operating profit (€m)	393	410	560	311
Total assets (€m)	4,228	4,441	4,395	4,573
Profitability				
Operating profit margin (%)	7.5%	7.8%	10.2%	5.7%
Net margin (%)	9.7%	10.4%	13.2%	9.2%
Return on assets (%)	12.0%	12.3%	16.5%	11.0%
Return on equity (%)	28.9%	30.9%	41.1%	27.6%
Viability ratio	1.08	1.08	1.11	1.06
Efficiency				
Liabilities / operating costs	0.51	0.55	0.53	0.54
Cost per staff member (€'000)	227	232	244	263
Staff costs as a proportion of operating costs (%)	17.4%	17.9%	17.9%	16.8%
Unit operating costs (€'000)	227.7	203.9	194.3	200.4
Total Revenue per Passenger-km (€)	0.07	0.07	0.07	0.07
Indebtedness				
Total debt of the company (€m)	1,589	1,751	1,816	1,619
Debt / Total liabilities	64.5%	65.4%	69.0%	58.9%
Debt: Equity ratio	0.90	0.99	1.03	0.89
Quick ratio	0.18	0.24	0.26	0.36
Current ratio	0.22	0.29	0.31	0.41
Debt service coverage ratio	7.86	7.19	10.98	6.10
Public funding				
Total public income (€m)	3,468	3,368	3,465	3,458
Public funding / costs (%)	71.5%	69.7%	70.2%	67.4%
Public funding / revenue (%)	66.1%	64.3%	63.0%	63.6%

Source: DB Regio AG's financial statements, Frontier analysis

10.9.6 Revenues have grown by approximately 4% over the period. This is driven by an increase in passenger revenues, although subsidies represented nearly two-thirds of the company's total income. While revenue per passenger-kilometre remained constant, the number of passenger-kilometres increased by 20%. Operating and net profit increased continuously to 2006 in both absolute terms and relative to revenue, but then fell sharply in 2007 to below the 2004 level. This seems to be due to an increasing cost base which has grown faster than revenues. Unit costs fell until 2006, but then increased again 2007. Costs per staff member have risen, but the number of personnel has declined. Staff costs now represent a sightly lower proportion of operating costs overall. Note that the net profits made between 2004 and 2007 would have been transferred to the holding company, under the control and profit transfer agreement. The above summary does not include these transfers of profit between DB Netz and the holding company.

10.9.7 Debt and equity are reasonably balanced, although while the value of equity increased slightly in 2007, the value of debt fell, causing the debt-equity ratio to fall somewhat. The current and quick ratios are very low, suggesting that the company would not have the liquidity ready to meet its short-term liabilities.

10.10 Railion Deutschland AG / DB Schenker Rail Deutschland AG

10.10.1 DB Schenker Rail (until February 2009 Railion Deutschland AG) is the freight transport operator within the Deutsche Bahn group. Until February 2009, Deutsche Bahn owned DB Schenker Logistik, which in turn owned Railion GmbH, which had a number of subsidiaries, each of which operated in a different European country. Railion Deutschland AG was responsible for the group's operations in Germany. Since February 2009, Railion GmbH has become "DB Schenker Rail", which is now directly owned by DB Mobility Logistics AG. Its subsidiary Railion Deutschland AG is now named "DB Schenker Rail Deutschland AG".

10.10.2 Quality of accounts

Given that the period of interest was 2004 to 2007, note that we have only reviewed the financial statements of Railion Deutschland AG. The company only became DB Schenker Rail Deutschland AG in February 2009.

Table 133 Quality of accounts

Issue	Quality	Comment
Audit Assurance	Good	**PricewaterhouseCoopers AG Auditors:** The Financial Statements have been audited by PricewaterhouseCoopers Aktiengesellschaft Wirtschafts-prüfungsgesellschaft, comprising the income statement, balance sheet, equity statement, cash flow statement and the notes to the financial statements. The financial statements were prepared in accordance with IFRS, as adopted by the EU, and the additional requirements of German Commercial Law pursuant to § 315a (1) HGB and are within the responsibility of the parent Company's Board of Managing Directors. PricewaterhouseCoopers conducted the audit of the financial statement in accordance with § 317 HGB and German generally accepted standards for the audit of financial statements promulgated by the Auditors Institute (IDW). [228]
Transparency	Good	Railion's financial statements showed a generally good level of detail in accordance with the requirements of IFRS and German commercial law..
Visibility of Public Funding	Partial	Railion received only a limited amount of investment related funding. The company's annual report provides a summary of the overall level of subsidies received.
Visibility of transfers from other rail businesses	Partial	Track access charge payments to infrastructure managers are not reported separately. However, all track access payments to DB Netz AG are diclosed in the annual report of DB group, by subsidiary. Track access payments made by DB Railion to other infrastructure managers are also not disclosed, but are likely to be relatively small.

[228] For example, see Railion Deutschland AG annual financial statement 2007, p 56

Visibility of intergroup transfers	Good	Transfers in relation to goods and services made between companies within the group are not documented within the annual reports for 2004 to 2007. The group's annual reports however provide a more detailed summary of monetary transfers made between group companies.

10.10.3 Compliance with the Directive

The following table provides an overview of the company's compliance with the directive.

Table 134 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Railion Deutschland and now Schenker Deutschland are legally separate and publishe separate accounts which include a profit & loss account and balance sheet. These are available for download on their website.
6.1(a)	Requirement to publish separated accounts	Yes	The accounts are available for download
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	No	Railion received very little public funding, only some investment subsidies which appear to be generally available to all industries. . According to Deutsche Bahn, structural separation prevents cross subsidisation between DB Netz and any of the Deutsche Bahn rail operating companies. "The transfer of public funds between infrastructure manager and railway undertaking is forbidden pursuant to § 9 paragraph 1b AEG, DB's compliance with this provision is constantly monitored by the Federal Railway Authority (Eisenbahn Bundesamt – EBA)".[229] However, note that due to a controlling and profit transfer agreement[230] Railion transfers any profit that it generates to its parent company (DB AG). A loss on the other hand would be offset by a transfer from DB AG. In addition, track access charges are paid by all of the rail service operators to DB Netz. It is not possible to tell from the accounts whether these reflect the associated costs or not.

229 DB response to study questionnaire

230 For example, see DB Fernverkehr annual financial statement 2007, p 48

6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. Since profits or losses are balanced with the holding company, DB Schenker and previously Railion are principally compliant with the directive. However, further analysis would be required to assess whether charges between operators for products are services are compliant with the directive. We consider the level of detail provided by the accounts as insufficient to allow such analysis. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	Railion and now DB Schenker are legally separate from the infrastructure manager DB Netz AG.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	As the sole freight operator within the group of DB companies Railion and now DB Schenker draw up separate accounts and financial statements.
9.4(a)	Requirement to publish separated accounts	No	Separate balance sheets are not published.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	Railion Deutschland AG only provides rail freight transport and does not operate under any PSOs.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	Railion Deutschland AG only provides rail freight transport and does not operate under any PSOs.

10.10.4 Public funding

Railion Deutschland AG received a relatively small amount of investment related subsidies

Table 135 Company summary of public fundings

Year	2004		2005		2006		2007	
Type	Amount	Source	Amount	Source	Amount	Source	Amount	Source
Grants (m€)	0	Investment subsidies	0	Investment subsidies	2	Investment subsidies	6	Investment subsidies

Source: Railion Deutschland AG's financial statements

10.10.5 Performance

Table 136: Summary financial and operational data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	3,513	3,484	3,704	3,815
Freight revenue	2,479	2,488	2,687	2,749
Total subsidisation	-	-	2	6
Wages, Salaries, Social Security Payments	946	919	912	878
Operating costs	3,465	3,460	3,523	3,619
Operating profit	48	24	181	196
Financial expenses	40	54	52	48
P&L on ordinary activities before tax	12	(27)	145	182
Total fixed assets	2,193	2,273	2,182	2,145
Long term receivables	-	-	-	-
Total current assets	201	220	181	410
Trade debtors	133	120	96	99
Other debtors	43	79	65	280
Current asset investments	-	-	-	-
Cash at bank and in hand	5	-	-	-
Creditors: <1yr (Current Liabilities)	502	420	358	580
Creditors: >1yr	856	1,039	1,014	981
Provisions for liabilities and charges	601	559	556	530
Equity	435	435	435	464
	No. / Km			
Average no. employees	23,398	21,905	20,507	20,035
Tonne-kilometres (m)	77,620	81,722	88,407	91,013

Source: Railion Deutschland AG financial statements

Table 137: Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	3,513	3,484	3,704	3,815
Net profit (€m)	12	(27)	145	182
Operating profit (€m)	48	24	181	196
Total assets (€m)	2,394	2,493	2,363	2,555
Profitability				
Operating profit margin (%)	1.4%	0.7%	4.9%	5.1%
Net margin (%)	0.3%	-0.8%	3.9%	4.8%
Return on assets (%)	0.5%	-1.1%	6.1%	7.1%
Return on equity (%)	2.8%	-6.2%	33.3%	39.2%
Viability ratio	1.01	1.01	1.05	1.05
Efficiency				
Liabilities / operating costs	0.57	0.58	0.55	0.58
Cost per staff member (€000)	148	158	172	181
Staff costs as a proportion of operating costs (%)	27.3%	26.6%	25.9%	24.3%
Unit operating costs (€'000)	44.6	42.3	39.8	39.8
Total Revenue per Tonne-km (€)	0.03	0.03	0.03	0.03
Indebtedness				
Total debt of the company (€m)	1,250	1,371	1,294	1,468
Debt / Total liabilities	64%	68%	67%	70%
Debt: Equity ratio	2.87	3.15	2.97	3.16
Quick ratio	0.36	0.47	0.45	0.65
Current ratio	0.40	0.52	0.51	0.71
Debt service coverage ratio	1.20	0.44	3.48	4.08
Public funding				
Total public income (€m)	0.0	0.0	2.0	6.0
Public funding / costs (%)	0.00%	0.00%	0.06%	0.17%
Public funding / revenue (%)	0.00%	0.00%	0.05%	0.16%

Source: Railion Deutschland AG financial statements, Frontier analysis

10.10.6 Revenues increased during the period by approximately 9% and as explained very little of this revenue was in the form of public funding. The total number of tonne-kilometres grew by 17% over the period, although the revenue per tonne-kilometre remained stable. Operating and net profit dipped in 2005, but then grew consistently to 2007, both in absolute terms and relative to revenue. The return on assets followed a similar pattern. The number of employees declined during the period, while the cost per employee rose, but overall staff costs represented a declining proportion of operating costs. Unit costs also fell, due to operating costs increasing at a slower rate than the total number of tonne-kilometres, implying that improvements in efficiency were achieved. Note that the net profits made between 2004, 2006 and 2007 would have been transferred to the holding company, under the control and profit transfer agreement. The above summary does not include these transfers of profit between DB Netz and the holding company.

10.10.7 The company is quite highly indebted and the debt-equity ratio was above 3 by the end of the period, although the value of both debt and equity had increased. The current ratio and quick ratio were quite low at the start of the period, but had improved by the end. The current ratio reached 0.71 implying that the company would be able to meet the majority of its short-term liabilities.

10.11 Arriva

10.11.1 Arriva is active in the German rail market through its many subsidiaries, as a provider of regional passenger and freight rail transport services. Primarily through acquisition, Arriva has become one of the largest private rail transport service providers in Germany and owns the largest private rail infrastructure network in Germany, amounting to 551 kilometres of track. This track is located in the states of Lower Saxony (operated by Osthannoversche Eisenbahn AG, 294km), in Brandenburg and Mecklenburg-Western Pomerania (operated by Prignitzer Eisenbahn GmbH, 215km) and in Bavaria (operated by Regentalbahn AG, 42km), hence there are three German rail infrastructure managers within the group.

10.11.2 Quality of Accounts

The company's statutory accounts for 2004, 2005 and 2006 are publicly available through the online register (Elektronischer Bundesanzeiger) of the Ministry of Law. The German rail operations are provided through a complex structure of companies. We did not review the statutory accounts of all of Arriva's individual subsidiaries as part of this study, although from those we did review, it appeared that most had structurally separated their rail activities, both vertically and horizontally (although it should be noted that their operating companies would predominantly use the network owned by DB Netz). Regentalbahn AG, for example, appears to manage infrastructure and provide transport services through separate subsidiaries, hence ensuring structural vertical separation. However, Osthannoversche Eisenbahn AG appears to manage infrastructure and also provide freight transport services while a subsidiary operates passenger transport.

10.11.3 Public funding

As no infrastructure outside DB Netz AG is subsidised, no subsidies were received for infrastructure management. Private operators usually only receive compensation for providing regional passenger transport under public service conrtacts.

10.12 Häfen und Güterverkehr Köln AG (HGK)

10.12.1 HGK provides transport and logistics services through various means of transport. Part of their business involves providing rail freight transport services within Germany and elsewhere in Europe. The German subsidiary Häfen und Güterverkehr Köln AG operate on 251km of the German rail network and the company is owned by the city of Cologne and the city district of Erfurt.

10.12.2 Quality of Accounts

We understand that HGK only operates freight services and therefore accounting separation between passenger transport and freight transport services is safeguarded. It does not however separate its freight transport business from other activities such as port operations and rail infrastructure and only publishes consolidated accounts.

10.12.3 Public funding

The annual financial statements disclose information regarding subsidies. It is not clear however which part of the business is subsidised or which state governments provide these subsidies.

Year	2004		2005		2006		2007	
Type	Amount	Source	Amount	Source	Amount	Source	Amount	Source

Grants (€'000)	2.221	Federal state subsidies	2,101	Federal state subsidies	2,069	Federal state subsidies	2,342	Federal state subsidies
Grants (€'000)	9,871	Other investment subsidies	6,586	Other investment subsidies	4,397	Other investment subsidies	1,538	Other investment subsidies

Source: HGK AG's financial statements

10.13 HUPAC GmbH Singen (Hupac)

10.13.1 Hupac is a subsidiary of Swiss company Hupac Ltd Chiasso and is active in the rail freight transport market. As well as Germany, Hupac Ltd operates in a number of European countries. The company does not appear to manage any rail infrastructure.

10.13.2 Quality of Accounts

HUPAC Ltd Chiasso publishes annual reports but these only include consolidated financial statements, which do not distinguish between the different countries of operation. Publicly available financial data for Hupac (the rail freight entity) is limited to balance sheets for 2006 and 2007.

10.13.3 Public funding

There is no information indicating whether Hupac receives any subsidies.

10.14 TX Logistik

10.14.1 TX Logistik provides logistics services including rail freight transport. Besides Germany, TX Logistik operates in Austria, Switzerland and Sweden. 51% of TX Logistik is owned by Trenitalia SpA. The company does not appear to manage any rail infrastructure.

10.14.2 Quality of Accounts

TX Logistik's financial statements are available through the electronic register (Elektronischer Bundesanzeiger) but are prepared on a consolidated basis. It is therefore not possible to distinguish the results associated with the rail freight transport business, although other operations seem to be fairly limited.

10.14.3 Public funding

The aggregated accounts provide some limited information on subsidies, although again it is not clear whether these relate purely to the rail freight transport business.

Year	2006		2007	
Type	Amount	Source	Amount	Source
Grants (t€)	601	Investment subsidies	758	Investment subsidies

Source: TX Logistics Deutschland AG's financial statements

10.15 Veolia

Veolia operates through two holding companies in Germany, Veolia Transport Cargo and Veolia Verkehr. Veolia Verkehr is the largest private regional passenger rail service provider in Germany and owns 38 separate regional rail operators. Veolia Cargo Deutschland provides freight rail services across Germany and Europe. In Germany it owns seven separate regional freight transport operators. Some subsidiaries of Veolia Transport Cargo also manage some railway infrastructure and each publishes their track access charges and the terms and conditions of access. Veolia group is also one of the few private operators to provide long haul passenger transport. It operates one route in the east of Germany.

10.15.1 Quality of Accounts

10.15.2 Veolia Verkehr and Veolia Transport Cargo own various subsidiaries which predominantly provide rail freight services (in the case of those owned by Veolia Verkehr) or passenger rail services (in the case of those owned by Veolia Transport). Accounting separation of freight and passenger transport services is therefore safeguarded. Based on our review of a sample of subsidiaries, it appears that infrastructure and transport operations are also structurally separated. However, we did not undertake a full review of all of the subsidiaries.

10.15.3 Public funding

Regional passenger transport is subsidised but information regarding the amount of public funding appears only to be reported at the level of the individual subsidiaries, if at all. For example:

- the “Bayerische Oberlandbahn”, operating in South Bavaria, reports a subsidy for PSO of €15.8m in 2006 and €19.1m in 2005; and
- the “NordWestBahn GmbH”, operating in the areas around Bremen and Düsseldorf does not separate subsidy and fare income.

17.1 Conclusion

17.7.12 Based on the information available, we can conclude the following.

- The incumbent operator Deutsche Bahn (DB) has a group structure, with separate companies dealing with infrastructure management, passenger operations, and freight operations.
- Two bodies are responsible for regulating the sector – the BMVBS and the EBA.
- Sources of public funding can be identified. The amounts of public funding can be identified from either company accounts or information from the regulator. We did however observe some discrepancy between data on the amounts of public funding provided by the regulator and the amounts shown in DB’s financial statements. While in principle, each type of public funding is awarded to finance a specific objective, the precise spending of funds within DB group companies can not be identified.
- Articles 6.1, 6.2 and 9.4 of the Directive have been fully transposed into national legislation apart from there being no reference to *publishing* the accounts. However, the company’s statutory accounts *are* published.
- The accounts produced are compliant with IFRS; however the level of disclosure of inter-company transactions is insufficient to be able to determine whether public funds have been transferred between the infrastructure manager and rail operators or PSO related funds have been transferred to other parts of the rail operators businesses.
- Deutsche Bahn believe that the structural separation of their activities prevents cross-subsidisation, however a controlling and profit agreement exists between each subsidiary and the holding company, such that any annual net profit generated is transferred to the holding company and any annual net loss is offset by a transfer from the holding company.
- In addition, all train operating companies within the DB group pay track and infrastructure access charges to the infrastructure manager and it is not possible to

tell whether these reflect the underlying costs and therefore are economically justifiable.

- The content and structure of DB's publicly available annual accounts and financial reports do not allow an effective monitoring and identification of cross subsidisation.
- All of the companies appear to have been consistently financially sound[1] since 2004, apart from DB Netz (the infrastructure manager). It should also be noted that DB AG (the holding company) has become progressively more profitable over the period 2004 – 2007.

11 GREECE

11.1 Industry overview

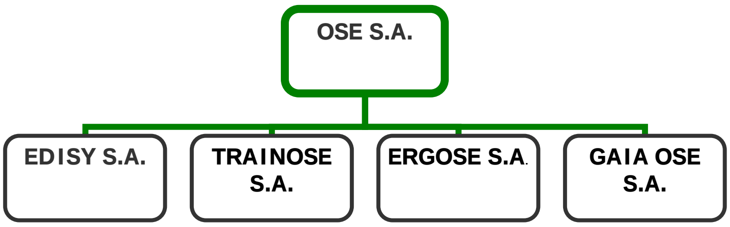
11.1.1 Situation before December 2008:

11.1.1.1 Until 2004 there was only one state owned company in the rail transport sector, namely OSE. In 2004 a separate suburban rail service provider, "PROASTIAKOS", was established. However, in 2005 Greece had to adjust the railway transport environment substantially in order to comply with the relevant European Union Directives.

11.1.1.2 In order to do this, OSE created two companies, a passenger and freight company, TRAINOSE, which acquired PROASTIAKOS and an infrastructure management company, EDISY. ERGOSE, which was created in 1996 in order to supervise the construction of new rail infrastructure, was also acquired by OSE, making OSE the holding company for all rail related undertakings.

11.1.1.3 It is important to note that the group was structured such that all existing and newly constructed railway infrastructure was owned by OSE, the holding company, rather than EDISY, the infrastructure manager.

11.1.1.4 The group structure at that time is shown below:



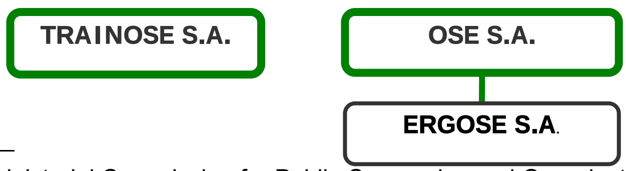
This group structure existed during the period 2005 – 2007, which is the period that the financial analysis in this chapter relates to.

11.1.2 Situation from December 2008:

11.1.2.1 An amendment to the railways law[231] was made in December 2008, to restructure the OSE group. The aim was to ensure the complete separation of the rail infrastructure management and the provision of passenger and freight transport services. The changes included:

- the transfer of all shares of TRAINOSE SA from OSE SA to the Hellenic State, which meant that TRAINOSE SA became fully independent from the OSE group;
- the merger of EDISY SA and OSE SA, through absorption by the latter; and
- the merger of GAIAOSE SA and ERGOSE SA, through absorption by the latter.

11.1.2.2 The current structure is shown below:



231 The decision of the Interministerial Commission for Public Companies and Organisations, under the subject "Corporate Transformation of OSE group", with protocol number 60201/EGDEKO 1964/19-12-08, published in the Gazette on December 22nd 2008 (FEK 2602/B').

11.2 List of Railway Undertakings

11.2.1 The table below summarises which entity was responsible for each part of the rail industry between 2004 and 2008.

	Passenger	Freight	Infrastructure manager	Infrastructure construction
2004-2005	OSE PROASTIAKOS	OSE	OSE	OSE
2006-2008	TRAINOSE	TRAINOSE	EDISY[232]	ERGOSE
December 2008	TRAINOSE	TRAINOSE	OSE[233]	ERGOSE[234]

11.3 Industry Regulator & Government Departments

11.3.1 Up until December 2008, the Ministry of Transport was solely responsible for overseeing the rail industry. However, on the 1st January 2009 an industry regulator was established within the Ministry of Transport[235].

11.3.2 The "National Railway Council" took on the responsibilities of a regulator of the market for railway services, including rail freight transport, as well as issuing licenses to railway undertakings, in line with the relevant regulations.

11.3.3 The Council is supervised by the Minister of Transport and Communications and has operational and organisational independence. The Council acts independently from the infrastructure manager, the Railway Safety Authority, the Railway Accidents Investigation Body, as well as any railway undertaking, charging and allocation body, physical or legal entity, whose interests could be in conflict with the mission and the competencies entrusted to the Council.

11.3.4 In the event of a violation of the provisions of the legislation concerning the market for railway services, including rail freight transport, the Council may impose sanctions on or fine the infrastructure manager and the railway undertakings.

11.4 Legal Framework

11.4.1 Official translation of the relevant law:

Note that Presidential Decree 41/2005 was amended by Presidential Decree 145/2008, although the provisions of this amendment related to the restructuring of the OSE group as described above. The articles of the law relevant to this study remain unchanged.

Presidential Decree 41/2005

Article 5: Separation between infrastructure management and transport operations (Article 6 of Directive 91/440 as is in effect)

232 The infrastructure managed by EDISY was actually owned by OSE.
233 From December 2008, EDISY and OSE merged.
234 From December 2008, GAIAOSE and ERGOSE merged.
235 See Article 20 ("Creation of the National Railway Council") of Law 3710/21-10-08, published in the Gazette on October 23rd 2008 (FEK 216/A')

1. Within eight (8) months from the date this PD is entered into force, OSE shall establish a Société Anonyme, in accordance with the provisions of Article 1, paragraph 3, of the Act 2366/1995, Article 4, paragraph 4, of the Act 2671/1998 and the Regulatory Act 2190/1920, under the name of "Ethnikos Diahiristis Sidirodromikis Ypodomis (E.DI.S.Y.) S.A." (National Railway Infrastructure Manager). This organization shall exclusively perform the management and operation of the National Railway Infrastructure. Particularly, it shall be responsible for maintenance and shall see to the enhancement and expansion of the Railway Infrastructure, and shall be responsible for managing the corresponding investments, within the framework of the broader national policy for the railways, as set forth in Article 1, paragraph 2, of the Act 2671/1998 (A' 289) (hereinafter the *"Infrastructure Manager"*).
OSE S.A. shall remain the Infrastructure Manager, in accordance with Article 2, paragraph 2, and Article 5 of the PD 324/1996, until the above organisation is established.
2. The corporate scope of the Infrastructure Manager may not include any business other than the management and operation of the railway infrastructure, and the management of related investments, in accordance with the provisions set forth herein. Without prejudice to provisions set forth herein, the Infrastructure Manager shall operate in accordance with public and private economy rules, and is overseen by the Minister of Transport & Communications, as set forth in Article 1, paragraph 5 of Act 2671/1998.
3. Any issues regarding the management and operation of the infrastructure, and any considerations owed by the Infrastructure Manager to OSE S.A., shall be defined in a contract to be placed between OSE S.A., as the owner of the Railway Infrastructure, and the Infrastructure Manager, which shall be approved by the Minister of Transport & Communications.
4. Within eight (8) months from the date this PD is entered into force, OSE S.A. shall establish one or more Société Anonyme-type organisations, in accordance with the provisions of Article 1, paragraph 3, of the Act 2366/1995, the Article 4, paragraph 4, of Act 2671/1998 and the Regulatory Act 2190/1920, to which the rights for supply of passenger and freight transport services shall be granted. The above organisations are obliged to obtain a railway undertaking license in accordance with the provisions of Articles 41 through 47 hereof in no later than twelve (12) months from their establishment.

Article 8: Financial rationalization (Article 9 of Directive 91/440 as is in effect)

1. In the case of railway undertakings, profit and loss accounts and annual statement of assets and liabilities shall be kept and published for business relating to the provision of rail freight-transport services. Funds paid for activities relating to the provision of passenger-transport services as public-service remits must be shown separately in the relevant accounts and may not be transferred to activities relating to the provision of other transport services or any other business.
2. Upon resolution of the General Meeting of OSE S.A., a separate debt amortization unit shall be set up within its accounting department. The balance sheet of the unit shall be charged with all the loans raised by OSE S.A., until this PD is entered into force, both to finance investment and to cover excess operating expenditure resulting from the business of rail transport or from railway infrastructure management.
3. Debts arising from subsidiaries' operations, including debts that may arise from Infrastructure Manager's operations, may not be taken into account.
4. Aid to cancel the debts referred to in paragraph 1 hereof, may be granted in accordance with Articles 73, 87 and 88 of the Treaty.

Table 138 Transposition of EC Directive 2001/EC/12

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are **kept** (emphasis added) …, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	No (i)	We have been unable to identify legislation relating to this point.
6.1(a)	Requirement to publish separated accounts	No	We have been unable to identify legislation relating to this point.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	No	We have been unable to identify legislation relating to this point.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	We have been unable to identify legislation relating to this point.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	"Within eight months from the ratification of this PD, OSE will establish an SA, according to paragraphs of Article 1, par. 3 Law 2366/1955, of Art. 4, par. 4 Law 2671/1998 and KN 2190/1920, with the name "National Manager of railway infrastructure S.A. EDISY". This company has the exclusive management and exploitation of the National Railway Infrastructure." (article 5.1) "Within eight months from the ratification of this PD, OSE will establish one or more SA, according to paragraphs of Article 1, par. 3 Law 2366/1955, of Art. 4, par. 4 Law 2671/1998 and KN 2190/1920, to which are given the rights to provide transport services for passengers and freight." (article 5.4)
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be **kept** (emphasis added)… for businesses relating to the provision of rail freight transport services.'	Yes	"In the case of railway undertakings profit and loss accounts and annual statement of assets and liabilities shall be kept and published for business relating to the provision of rail freight transport services." (article 8.1)
9.4(a)	Requirement to publish separated accounts	Yes	See above.

9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	"Funds paid for activities relating to the provision of passenger transport services as public-service remits must be shown separately in the relevant accounts (…)" (article 8.1)
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	"(…) and may not be transferred to activities relating to the provision of other transport services or any other business." (article 8.1)

Notes:

(i) The legislation refers to physical vertical separation of the previously integrated rail company and therefore implicitly this means that the accounts will at least be vertically separated (i.e. between infrastructure and operations).

11.4.2 It is unclear from the legislation who is responsible for overseeing its implementation. There is no reference to a regulator or other body who will perform this function.

11.4.3 In our view, Greece does not appear to have fully transposed the EU directive on accounting separation. In particular, the domestic legislation does not reflect the prohibition on the transfer of public funds between the infrastructure manager and the operating companies.

11.5 Sources of Information

11.5.1 Greek legislation:

- Presidential Decree PD 41/2005 in relation to National Law 3429/2005, published in the Gazette on March 7th 2005 (FEK 60/A') – official English translation.
- Presidential Decree 145/30-9-08, published in the Gazette on October 7th 2008 (FEK 201/A').
- "Creation of the National Railway Council". Law 3710/21-10-08, published in the Gazette on October 23rd 2008 (FEK 216/A')
- "Corporate Transformation of OSE group", with protocol number 60201/EGDEKO 1964/19-12-08, published in the Gazette on December 22nd 2008 (FEK 2602/B'),

11.5.2 Annual accounts:

- OSE Annual Reports (2006 – 2007)
- TRAINOSE Annual Reports (2006 – 2007)
- EDISY Annual Reports (2006 – 2007)
- ERGOSE Annual Reports (2006 – 2007)

11.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- Discussions with staff at the Ministry of Transport

11.6 OSE (Organismos Sidirodromon Ellados)

11.6.1 As explained, until December 2008, OSE was the parent company of the rail infrastructure manager, the rail construction manager and the passenger and freight rail service operator. It also retained ownership of all rail infrastructure. Since December 2008, it has taken on the role of rail infrastructure manager and no longer owns the shares of TRAINOSE, the passenger and freight rail service operator.

11.6.2 The Greek government continues to have a majority shareholding in OSE and the remainder of the shares are quoted on the stock exchange.

11.6.3 Quality of financial statements

Table 139 Quality of financial statements

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements reported in compliance with the International Reporting Framework present an objective overview of the financial situation in all substantial matters as regards OSE, as well as the economic results and financial flows for the year then ended, in accordance with the International Financial Reporting Standards as adopted by the EU.'
Transparency	Good	There is a good level of detail in the accounts which are prepared in accordance with IFRS.
Visibility of transfers from other rail businesses	N/A	Until December 2008, OSE was just the holding company and therefore did not pay or receive track access charges from the other rail undertakings.
Visibility of intra-group transfers	Good	All intra-group transactions are disclosed in the "connected parties transactions" note

11.6.4 Public Funding

Table 140 Public Funding

Year Type	2006				2007			
	Amount	Use of funds	Repayment Profile (where relevant)	Interest Rate (where relevant)	Amount	Use of funds	Repayment Profile (where relevant)	Interest Rate (where relevant)
Other	**28,271**	-	-	-	**28,271**	-	-	-

Note: All values are shown in €

11.6.5 Performance

Since 2006 and prior to December 2008, OSE was the holding company and therefore did not manage the rail infrastructure or operate rail services. However, it did retain ownership of the rail infrastructure and below we set out what appears to be the value of these assets as shown in the financial statements.

€	y/e 2006	y/e 2007
Land	3,925,566	3,996,145
Infrastructure	5,919,164	5,748,576
TOTAL	9,844,730	9,744,721

Source: OSE financial statements (y/e 2007, Note 4.1)

11.7 TRAINOSE

11.7.1 TRAINOSE S.A. was created in 2005 after the European directive was incorporated into Greek legislation. It provides transport services for both freight and passengers and until December 2008, OSE was its sole shareholder. The company operates for the 'public good' and within the legal framework as stated by Law 3429/2005 for the organisations and companies within the broader public sector.

11.7.2 Quality of financial statements

Table 141 Quality of financial statements

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements reported in compliance with the International Reporting Framework present an objective overview of the financial situation in all substantial matters as regards TRAINOSE, as well as the economic results and financial flows for the year then ended, in accordance with the International Financial Reporting Standards as adopted by the EU. We note that the company has not been checked for the period to December 2005 that is when it was first created.'
Transparency	Good	There is a good level of detail in the accounts which are prepared in accordance with IFRS.
Visibility of transfers from other rail businesses	Good	Infrastructure access charge payments are separately disclosed.
Visibility of intra-group transfers	Good	All intra-group transactions are disclosed in the "connected parties transactions" note

11.7.3 Compliance with the Directive

Table 142 Compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Prior to December 2008, TRAINOSE was legally separate from the infrastructure management company and the infrastructure construction company, although all of these companies were owned by the parent company OSE. Since December 2008, TRAINOSE is no longer a subsidiary of OSE. In both cases there is no issue in relation to accounting separation as the legal separation means that separate accounts have been produced.
6.1(a)	Requirement to publish separated accounts	No	These accounts are not published on the company website.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	TRAINOSE does not appear to receive any public funding, based on a review of its accounts[236].
6.1	Accounts kept in a way which reflects this prohibition	Yes	TRAINOSE does not appear to receive any public funding, based on a review of its accounts[237].
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	Train operating companies in Greece are not responsible for managing the rail infrastructure. Prior to December 2008, the mainline network infrastructure was managed by a separate company, EDISY. Since December 2008 it has been managed by OSE, which merged with EDISY.
9.4	Separate P&L and balance sheets kept and published for freight operations.	No	There is no accounting separation between its passenger and freight transportation businesses.
9.4(a)	Requirement to publish separated accounts	No	Separate balance sheets and P&Ls are not published.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	TRAINOSE does not appear to receive any public funding, based on a review of its accounts.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	TRAINOSE does not appear to receive any public funding, based on a review of its accounts.

236 Please note that while we have requested detailed information on public funding from the regulator, at the time of writing we had not received a response.

237 Please note that while we have requested detailed information on public funding from the regulator, at the time of writing we had not received a response.

11.7.4 In our view, Trainose SA does not appear to fully comply with the EC's directive on accounting separation. Specifically, it does not provide separate accounts for its passenger and freight transportation businesses and it is unclear whether it provides full disclosure of the public funding it receives.

11.7.5 Public funding

It is currently unclear from the financial statements whether TRAINOSE receives public funding of any sort[238].

11.7.6 Performance

Table 143 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	0	0	0	116.2
Passenger revenue	0	0	0	63.8
Freight revenue				28.9
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	0	0	0	113.4
Operating costs	0	0	0	273.3
Operating profit	0	0	0	-157.2
Financial expenses	0	0	0	0.04
P&L on ordinary activities before tax	0	0	0	-155.1
Total fixed assets	0	0	0	1.5
Long Term receivables	0	0	0	0
Total current assets	0	0	0	123.0
Trade debtors	0	0	0	14.7
Other debtors	0	0	0	40.3
Current asset investments	0	0	0	0
Cash at bank and in hand	0	0	0	65.7
Creditors: <1yr (Current Liabilities)	0	0	0	160.0
Creditors: >1yr	0	0	0	1.6
Provisions for liabilities and charges	0	0	0	0.5
Equity	0	0	0	-39.2
				No. / Km
Average no. employees	0	0	0	1,909
Passenger-kilometres (m.)	0	0	0	1,930
Tonne-kilometres (m.)				835

Note: The operation of train services appears to have been transferred to TRAINOSE from OSE part way through 2006. Consequently the results for 2006 are not comparable with 2007 and have therefore been excluded.

238 Please note that while we have requested detailed information on public funding from the regulator, at the time of writing we had not received a response.

Table 144: Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	-	-	-	116.2
Net profit (€m.)	-	-	-	-155.1
Operating profit (€m.)	-	-	-	-157.2
Total assets (€m.)	-	-	-	124.5
Profitability				
Operating profit margin (%)	-	-	-	-135.3%
Net margin (%)	-	-	-	-133.5%
Return on assets (%)	-	-	-	-124.6%
Return on equity (%)	-	-	-	395.5%
Viability ratio	-	-	-	42.5%
Efficiency				
Liabilities / operating costs	-	-	-	0.59
Cost per staff member (€ ´000)	-	-	-	143.2
Staff costs as a proportion of operating costs (%)	-	-	-	41.5%
Unit operating costs (€)	-	-	-	-
Revenue per Passenger-km (€ ´000)	-	-	-	0.03
Revenue per Tonne-km (€ ´000)				0.03
Indebtedness				
Total debt of the company (€m.)	-	-	-	0.0
Debt / Total liabilities				0%
Debt: Equity ratio	-	-	-	0
Quick ratio	-	-	-	0.8
Current ratio	-	-	-	0.8
Debt service coverage ratio	-	-	-	-3,791.2
Public funding				
Total public income (€)	-	-	-	0
Public funding / costs (%)	-	-	-	0%
Public funding / revenue (%)	-	-	-	0%

Note: The operation of train services appears to have been transferred to TRAINOSE from OSE part way through 2006. Consequently the results for 2006 are not comparable with 2007 and have therefore been excluded.

The company's rail freight transportation business makes about half as much revenue as its passenger rail transportation business. However, it generates a similar amount of revenue per passenger-km and per tonne-km. It is loss making in both operating and net terms and made very large negative margins and return on assets. Staff costs are reasonably high, representing 41% of the operating cost base.

The current ratio and quick ratio are reasonably high at around 0.8, which implies that the company should be able to service most of its short-term liabilities.

11.8 EDISY

11.8.1 EDISY was created in 2005 following the incorporation of the relevant European Directives into Greek law. It was owned by OSE, which retained 100% of its shares.

11.8.2 The Company undertook the management of the railway infrastructure. Moreover it was responsible for:

- the maintenance of the national railway infrastructure;
- rail traffic circulation;
- the improvement and extension of the railway;

- management of the relevant investments; and
- setting and receiving infrastructure access charges for the use of the rail infrastructure by the railway undertakings.

11.8.3 In December 2008, EDISY merged with OSE and therefore OSE now carries out the role of infrastructure manager.

11.8.4 Quality of financial statements

Table 145 Quality of financial statements

Issue	Quality	Comment
Audit Assurance	Good	‘In our opinion, the financial statements reported in compliance with the International Reporting Framework present an objective overview of the financial situation in all substantial matters as regards EDISY, as well as the economic results and financial flows for the year then ended, in accordance with the International Financial Reporting Standards as adopted by the EU. We note that the company has not been checked for the period of December 2005 that is when it was first created.
Transparency	Good	There is a good level of detail in the accounts which are prepared in accordance with IFRS.
Visibility of transfers from other rail businesses	Good	Revenue from infrastructure access charges is separately disclosed.
Visibility of intra-group transfers	Good	All intra-group transactions are disclosed in the “connected parties transactions” note

11.8.5 Compliance with the Directive

Table 146 Compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Prior to December 2008, EDISY was legally separated from the freight and passenger transportation operator TRAINOSE although both of these companies were owned by the parent company OSE. Since December 2008, TRAINOSE is no longer a subsidiary of OSE. In both cases, there is no issue in relation to vertical accounting separation as the structural separation means that separate accounts have been produced.
6.1(a)	Requirement to publish separated accounts	No	The accounts are not available for download
6.1	Prohibition on the transfer of	Yes	TRAINOSE pays charges to EDISY for

	public funds between infrastructure manager and rail operator		access to the railway network. At the same time, EDISY might receive direct public funding. If the access charges the infrastructure manager levies on the operating company are below cost, this opens up the possibility of an effective transfer of public funds from EDISY to TRAINOSE. Similarly, if they are above cost, this opens up the possibility of an effective transfer of public funds from TRAINOSE to EDISY. It is currently unclear from the financial statements whether EDISY receives public funding of any sort or whether the track access charges are cost-reflective. However, we have not encountered any evidence suggesting the illegal transfer of funds is occurring.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for the accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Greece and is not provided by EDISY. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	Train operating companies in Greece are not responsible for managing the track infrastructure. Prior to December 2008, the mainline network infrastructure was managed by a separate company, EDISY. Since December 2008 it has been managed by OSE, which merged with EDISY.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	EDISY is the infrastructure manager and therefore is not responsible for freight operations.
9.4(a)	Requirement to publish separated accounts	Yes	EDISY is the infrastructure manager and therefore is not responsible for freight operations.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	EDISY is the infrastructure manager and therefore is not responsible for any services provided under a PSO contract.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	EDISY is the infrastructure manager and therefore is not responsible for any services provided under a PSO contract.

11.8.6 In our view, EDISY does not fully comply with the EC directive. It does comply with the vertical accounting separation requirements of the Directive due to the legal separation of the infrastructure management activities. However, as in most other countries, the statutory accounting requirements are not sufficient to be able to determine whether or not public funds are being transferred between activities.

11.8.7 Public funding

It is currently unclear from the financial statements whether EDISY receives public funding of any sort[239].

11.8.8 Performance

Table 147: Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	-	-	-	243.1
Revenue from infrastructure charges	-	-	-	55.1
Total subsidisation	-	-	-	0
Wages, Salaries, Social Security Payments	-	-	-	259.7
Operating costs	-	-	-	414.0
Operating profit	-	-	-	-170.9
Financial expenses	-	-	-	0.002
P&L on ordinary activities before tax	-	-	-	-196.3
	-	-	-	
Total fixed assets	-	-	-	0.5
Long Term receivables	-	-	-	0
Total current assets	-	-	-	262.0
Trade debtors	-	-	-	122.5
Other debtors	-	-	-	27.1
Current asset investments	-	-	-	0
Cash at bank and in hand	-	-	-	9.0
Creditors: <1yr (Current Liabilities)	-	-	-	63.1
Creditors: >1yr	-	-	-	126.5
Provisions for liabilities and charges	-	-	-	0.9
Equity	-	-	-	72.0
	No. / Km			
Average no. employees	-	-	-	5,087
Managed kilometres	-	-	-	2,746

Note: The management of the rail infrastructure appears to have been transferred to EDISY from OSE part way through 2006. Consequently the results for 2006 are not comparable with 2007 and have therefore been excluded.

239 Please note that while we have requested detailed information on public funding from the regulator, at the time of writing we had not received a response.

Table 148: Financial Ratios

Financial indicators	2004	2005	2006	2007
Performance	-	-	-	
Revenues (€m.)	-	-	-	243.1
Net profit (€m.)	-	-	-	-196.3
Operating profit (€m.)	-	-	-	-170.9
Total assets (€m.)	-	-	-	262.5
Profitability				
Operating profit margin (%)	-	-	-	-70.3%
Net margin (%)	-	-	-	-80.8%
Return on assets (%)	-	-	-	-74.8%
Return on equity (%)	-	-	-	-272.7%
Viability ratio	-	-	-	0.59
Efficiency				
Liabilities / operating costs	-	-	-	0.5
Cost per staff member (€ ´000)	-	-	-	81.4
Staff costs as a proportion of operating costs (%)	-	-	-	62.7%
Unit operating costs (€ ´000)	-	-	-	150.8
Revenue per managed km (€ ´000)	-	-	-	20.0
Indebtedness				
Total debt of the company (€ m.)	-	-	-	126.5
Debt / Total liabilities	-	-	-	66.4%
Debt: Equity ratio	-	-	-	1.8
Quick ratio	-	-	-	2.51
Current ratio	-	-	-	4.15
Debt service coverage ratio	-	-	-	-77,338
Public funding				
Total public income (€m.)	-	-	-	0
Public funding / costs (%)	-	-	-	0%
Public funding / revenue (%)	-	-	-	0%

Note: The management of the rail infrastructure appears to have been transferred to EDISY from OSE part way through 2006. Consequently the results for 2006 are not comparable with 2007 and have therefore been excluded.

Only a fifth of the company's revenue is generated from track access charges, although the source of the rest of its revenue is unclear. It is loss making in both operating and net terms and made very large negative margins and return on assets. Staff costs are quite high, representing 63% of the operating cost base.

Debt is relatively low as the gearing ratio is only 1.8 and equity is positive. The current ratio and quick ratio are both well over one, which implies that the company has plenty of liquid assets to pay its short-term creditors.

11.9 ERGOSE

11.9.1 ERGOSE was created in 1996 in order to manage and oversee the use of European funds in new investment projects relating to railway infrastructure.

11.9.2 It was acquired by OSE in 2005 and is now responsible for supervising and managing the use of public funds to construct new rail infrastructure in relation to the National Strategic Regional Framework 2007-2013. Note that since December 2008, ERGOSE has merged with GAIAOSE.

11.9.3 Quality of financial statements

Table 149 Quality of financial statements

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements reported in compliance with the International Reporting Framework present an objective overview of the financial situation in all substantial matters as regards ERGOSE, as well as the economic results and financial flows for the year then ended, in accordance with the International Financial Reporting Standards as adopted by the EU.'
Transparency	Good	There is a good level of detail in the accounts which are prepared in accordance with IFRS.
Visibility of transfers from other rail businesses	N/A	As the infrastructure construction manager, the company does not pay or receive infrastructure access charges.
Visibility of intra-group transfers	Good	All intra-group transactions are disclosed in the "connected parties transactions" note

11.9.4 Compliance with the Directive

Table 150 Compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Prior to December 2008, ERGOSE was legally separated from TRAINOSE, the freight and passenger transportation operator, although both companies were owned by the parent company OSE. Since December 2008, TRAINOSE is no longer a subsidiary of OSE. In both cases, there is no issue in relation to vertical accounting separation as the structural separation means that separate accounts have been produced.
6.1(a)	Requirement to publish separated accounts	No	Separated balance sheets and P&Ls are not published.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	ERGOSE is responsible for supervising the construction of new rail infrastructure that will eventually be used by the operating company and administered by the infrastructure manager. Until December 2008 all of these parties formed part of the same group. This opened up the possibility of public funds being transferred by ERGOSE to the rest of the group. However, we did not encounter any evidence of illegal transfers.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for the accounts to be kept in a way which reflects this prohibition. This

			level of detail is beyond the requirements for statutory accounts in Greece and is not provided by ERGOSE. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	ERGOSE is only responsible for supervising the construction of new rail infrastructure that will eventually be used by the operating company and administered by the infrastructure manager and is legally separated from TRAINOSE, the freight and passenger transportation operator. However, since December 2008, ERGOSE has merged with GAIA OSE.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	ERGOSE is responsible for supervising the construction of new rail infrastructure and therefore is not responsible for freight operations.
9.4(a)	Requirement to publish separated accounts	Yes	ERGOSE is responsible for supervising the construction of new rail infrastructure and therefore is not responsible for freight operations.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	ERGOSE is responsible for supervising the construction of new rail infrastructure and therefore is not responsible for any services provided under a PSO contract.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	ERGOSE is responsible for supervising the construction of new rail infrastructure and therefore is not responsible for any services provided under a PSO contract.

11.9.5 In our view, ERGOSE SA does not fully comply with the EC directives on accounting separation. As in most other countries, the statutory accounting requirements are not sufficient to be able to determine whether or not public funds are being transferred between activities.

11.9.6 Public funding

Table 151 Public Funding

Year / Type	2006				2007			
	Amount	Use of funds	Repayment Profile (where relevant)	Interest Rate (where relevant)	Amount	Use of funds	Repayment Profile (where relevant)	Interest Rates (where relevant)
Other	**28,271**	-	-	-	**28,271**	-	-	-

Source: ERGOSE's annual financial statements

Note: All values are shown in €

11.9.6.1 We understand that ERGOSE receives public funding in order to carry out rail infrastructure construction projects, but it is currently unclear from the financial statements whether the amount shown in the table above represents the total amount of public funding ERGOSE receives[240].

11.9.7 Performance

Table 152 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	-	-	306.2	592.6
Infrastructure charge revenue	-	-	0	0
Total subsidisation	-	-	0.02	0.01
Wages, Salaries, Social Security Payments	-	-	10.2	11.7
Operating costs	-	-	303.8	590.0
Operating profit	-	-	28.6	2.6
Financial expenses	-	-	0.3	0.3
P&L on ordinary activities before tax	-	-	3.4	4.2
	-	-		
Total fixed assets	-	-	19.6	16.9
Long Term receivables	-	-	0	0
Total current assets	-	-	93.3	131.8
Trade debtors	-	-	17.3	20.1
Other debtors	-	-	12.3	27.5
Current asset investments	-	-	0	0
Cash at bank and in hand	-	-	63.7	84.2
Creditors: <1yr (Current Liabilities)	-	-	84.8	116.0
Creditors: >1yr	-	-	1.2	1.2
Provisions for liabilities and charges	-	-	3.3	4.0
Equity	-	-	23.7	27.5
	No. / Km			
Average no. employees	-	-	-	-
Managed kilometres	-	-	-	-

Table 153 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	-	-	306.2	592.6
Net profit (€m.)	-	-	3.4	4.2
Operating profit (€m.)	-	-	28.6	2.6
Total assets (€m.)	-	-	113.0	148.7
Profitability				
Operating profit margin (%)	-	-	9.3%	0.4%
Net margin (%)	-	-	1.1%	0.7%
Return on assets (%)	-	-	3.0%	2.9%
Return on equity (%)	-	-	14.4%	15.4%
Viability ratio	-	-	100.8%	100.4%
Efficiency				
Liabilities / operating costs	-	-	0.3	0.2
Cost per staff member (€ ´000)	-	-	-	-
Staff costs as a proportion of operating costs (%)	-	-	3.4%	2.0%
Unit operating costs (€ ´000)	-	-	-	-
Revenue per managed km (€ ´000)	-	-	-	-
Indebtedness	-	-		
Total debt of the company (€m.)	-	-	0.0	0.0
Debt / Total liabilities	-	-	0.0%	0.0%
Debt: Equity ratio	-	-	0.0	0.0
Quick ratio	-	-	1.1	1.1
Current ratio	-	-	1.1	1.1
Debt service coverage ratio	-	-	111.0	9.7
Public funding				
Total public income (€m.)	-	-	0.02	0.01
Public funding / costs (%)	-	-	0.0%	0.0%
Public funding / revenue (%)	-	-	0.005%	0.001%

240 Please note that while we have requested detailed information on public funding from the regulator, at the time of writing we had not received a response.

Less than 0.1% of revenue comes in the form of public funding. Unlike the other rail undertakings, ERGOSE is profitable in both operating and net terms. It generated small profit margins and a positive return on assets although these declined slightly from 2006 to 2007. Staff costs are very low, representing only 2% of the operating cost base in 2007.

The company has no debt and is completely equity funded. The current ratio and quick ratio are both just above one, which implies that the company can meet its short-term liabilities.

11.10 Conclusion

17.7.13 Based on the information available, we can conclude the following.

- The incumbent operator TRAINOSE operates both passenger and freight services. OSE is the incumbent infrastructure manager and is independent of TRAINOSE. It has a separate subsidiary ERGOSE which has responsiblity for constructing any new infrastructure. Prior to December 2008, all entities formed part of a single group structure.
- Since the start of the year, an independent body "The National Railway Council" has taken on responsibility for regulating the Greek rail sector.
- The amount and sources of public funding are not very clear, nor is the use of that funding. According to the 2007 financial statements, the (then) group received €28.27m of funding from the state which appeared to be paid to OSE who then distributed it to ERGOSE. It seemed strange that TRAINOSE didn't appear to receive any funding for PSOs, especially as it is loss making.
- Articles 6.2 and 9.4 of the Directive have been fully transposed into national legislation but Article 6.1 has not. However, the company's statutory accounts, *are* published.
- The accounts produced are compliant with IFRS, however the level of disclosure of inter-company transactions is insufficient to be able to determine whether public funds have been transferred between the infrastructure manager and rail operator.
- TRAINOSE does not horizontally separate its accounts (i.e. between passenger and freight services), even though this requirement does appear to have been incorporated into the Greek railways law.
- TRAINOSE pays track and infrastructure access charges to the infrastructure manager OSE (previously EDISY) but it is not possible to tell whether these reflect the underlying costs and therefore are economically justifiable.
- Due to the changing structure of the industry, we only reviewed financial data for 2007, as financial data for previous periods would not be comparable. None of the companies, apart from ERGOSE (the infrastructure construction company) appears financially sound[241]

[241] This means that for example, they did not make a positive profit.

12 HUNGARY

12.1 Industry overview

12.1.1 The Hungarian railway industry has two state owned, integrated, incumbent operators; MÁV and GySEV. MÁV is wholly owned by the Hungarian state. GySEV is owned jointly by the Hungarian state, the Austrian state and a private sector partner.

12.1.2 Both these companies, as well as having passenger and freight operations, operate their own infrastructure, with GySEV predominantly operating in western Hungary and in Austria and MÁV operating the majority of the domestic network. The allocation of capacity on these networks is the responsibility of VPE, a separate company created in 2003.

12.1.3 There are 23 railway undertakings with licences to operate in Hungary, see table below, and recently, there have been numerous new entrants into the freight market in Hungary, with MÁV selling its freight business to Rail Cargo Austria (RCA) in 2008.

12.1.4 The rail freight market is dominated by MAV Cargo Zrt. which has a market share of around 80% (of total revenue). GySEV Zrt is the second largest company with a market share of just 12%.[242] None of the new entrants which make up the other 8% of the market generate revenues greater than €50m so will not be studied in detail in this report.

12.1.5 Passenger activities are undertaken by three licence holders. MAV Start Zrt. (a subsidiary of MAV), the passenger operating division of GySEV Zrt. and MAV Nosztalgia Kft (which only operates vintage trains). MAV Start Zrt. and GySEV Zrt. perform passenger transport under public service obligations.

12.1.6 According to the NKH, there are three main sources of income for the passenger operating companies. These are; revenues from ticket sales, compensation granted from the state for PSO and state subvention on prices of certain tickets (for example subsidies on student or pensioners' tickets).

12.1.7 In addition to PSO compensation, MAV Zrt. and GySEV Zrt. have also been granted capital increases from the state.

12.1.8 In 2008, regulation of the rail industry was transferred from the Hungarian Rail Office to the railway department of the National Transport Authority (NKH). All licensed railway undertakings are obliged to send their annual statements to the regulatory body. The Ministry of Economy and Transport and the Ministry of Finance are also required to do this on a quarterly basis.

12.2 List of Railway Undertakings[243]

Passenger	Freight	Infrastructure Manager
Gyor-Sopron-Ebenfurti Vasut Zrt (GySEV)* MÁV Nosztalgia Idegenforgalmi, Kereskedelmi es Szolgaltato Kft MÁV Start Zrt*	Balatoni Iparvasut Szolgaltato Kft Bobo Conveyance Reparing Industrial Commercial Service Ltd CER (Central European Railway Transport, Trading and Service Co) CER Kozep Europai Vasuti Arufuvarozasi Kereskedelmi es Szolgaltato Zrt	VPE* MÁV Co Ltd* GySEV*

242 Correnspondence with National Transport Authority, (NKH), May 2009
243 European Railways Agency, www.era.europa.eu

Passenger	Freight	Infrastructure Manager
	Eurocom Automatizalasi es Vasuttechnikai Zrt Floyd Ltd FLOYD Szolgaltato G&G Pest Control and Trade Ltd. Jasz-Vasut Muszaki Terveso Kft Masped Rail Cargo Maganvusut Zrt Matrai Eromu Zrt Plc MAV Cargo* MAV Nosztalgia Idegenforgalmi, Kereskedelmi es Szolgaltato Kft MAVEPCELL Mely, Magas es Vasutepito Kft MAV Trakcio Vasuti Vontatasi Zrt MMV Magyar Maganvasut Zrt MMV Plc Pannontrain Vasuti Zrt Szentesi Vasutepito Kft Train Hungary Ltd Train Hungary Maganvasut Ipari Keresekedelmi es Szolgaltato Ltd Vasutepitok Palyatervezo Kivitelezo es Iparvaganyfenntarto Kft Zahony Port Zahonyi Logisztikai es Rakomanykezelesi Szolgaltato Kft	

*Companies with Hungarian revenues greater than €50m which will be studied in depth.

12.3 Industry Regulator & Government Departments

12.3.1 Regulatory Authorities

- National Transport Authority; Dept of Railway Regulation (formerly the Hungarian Rail Office)[244]

12.3.2 Ministry of Finance

- Penzugyminiszterium[245]

12.3.3 Ministry of Economy and Transport

- Gazdasagi es Kozlekedesi Miniszterium was replaced in 2008 by two relevant departments:
- Ministry for National Development and Economy
  - Nemzeti Fejlesztesi es Gazdasagi Miniszterium[246]
- Ministry of Transport, Telecommunication and Energy
  - Kozlekedesi, Hirkozlesi es Energiaugyi Miniszterium[247]

[244] www.nkh.hu
[245] www.pm.gov.hu
[246] http://nfgm.gov.hu
[247] www.khem.gov.hu

12.4 Legal Framework

A number of pieces of legislation are relevant in understanding how the Hungarian rail industry is governed.

12.4.1 Act XCV of 1993 on the Railways.

Article 4

According to its operation, the national public railway may be:

a) an infrastructure manager engaged in the establishment, development, renovation, maintenance and operation of railway tracks and their accessories (hereinafter referred to as operation);

b) a railway undertaking engaged in passenger transport (passenger railway undertaking) and freight forwarding (freight railway undertaking) using rolling stock.

Article 5

Properly separated from an accounting point of view, the activity of the infrastructure manager, the passenger railway undertaking and the freight railway undertaking can be performed within the same organisation (a railway company). The rules for accounting separation are determined jointly by the Minister for Transport and Water Management and the Minister for Finance.

12.4.2 Act CLXXXIII of 2005 on railway transport

Article 37

1) The integrated railway undertakings with a national operational licence are obliged to provide, in accordance with a separate law, separate accounts for the following activities:
(a) operation of the railway infrastructure;
(b) rail passenger transport;
(c) carriage of goods by rail;
(d) traction.
2) Cross subsidies between the management of the railway system and any other activities of the integrated railway undertaking is prohibited.
3) The integrated railway undertaking is obliged to prove its commitment to separate accounting to the railway administrative authority yearly.

12.4.3 Decision No. 20/2006 of the Hungarian Rail Office.

‘MÁV and GySEV are ordered to ensure that the open access railway infrastructure managed by them is accessible under agreements that are based on a system of accounting documents that allows monitoring of the entire process, from the purchase of the services to the payment of the charges, and are consistent with the principles of accounting separation.’

12.4.4 Joint Decree No. 50/2007. (IV. 26.) of the Ministry of Economy and Transport and the Ministry of Finance on the separation of accounts of rail activities within the railway undertakings

Paragraph 2

(1) Railway undertakings defined in Points a)-c) Paragraph 1 (henceforth together: railway undertakings obliged to separate accounts), considering Sections (3)-(6) shall make annual regulatory report (henceforth: annual regulatory report) as part of the appendix of the annual financial statement defined in the Act on Accounts (henceforth: financial statement). The annual regulatory report shall contain the balance sheet, the profit-and-loss statement, the cash-flow statement, the statement defined in Annex 1 of this decree and their explanation in the following breakdown of activities:
a) management of railway infrastructure
b) rail passenger transport, within that rail passenger transport provided as public service
c) rail freight transport
d) traction.
(2) In the interest of entireness, the balance-sheet, the profit-and-loss statement, the cash-flow statement and their explanations shall cumulatively be made also on the other business activities of the undertaking.
(3) Regarding the management of railway infrastructure, infrastructure managers and national integrated railway undertakings shall separate accounts.
(4) Regarding rail passenger transport, national integrated railway undertakings and public service providers shall separate accounts.
(5) Regarding rail freight transport, national integrated railway undertakings shall separate accounts.
(6) Regarding traction, national integrated railway undertakings possessing license for providing traction services shall separate accounts.
(7) Railway undertakings obliged to separate accounts shall apportion the costs of the central management in accordance with the method defined in the regulation on separation of accounts defined in Paragraph 7.

Paragraph 3
(1) Railway undertakings obliged to separate accounts shall present
a) the annual average statistical number of their staff employed in that year
b) funds granted by the state budget by their title
c) incomes from related companies and costs emerged towards them, for each related company
in the annual regulatory report in the breakdown defined in Paragraph 2 Section (1).
(2) Aggregations due to the separation of activities shall be presented in the annual regulatory report. This shall be related to the statements defined in Paragraph 2 Section (1). Aggregations shall be presented in a manner that makes the unambiguous determination of the relationships of the statements made for each activity and for the whole railway undertaking obliged to separate accounts possible.

12.4.5 Considerable detail is given of the methodologies and principles expected to be used in the compilation of the accounts to be submitted to the regulator.[248]

Table 154 EC Directive 2001/12/EC compliance

Article	Issue	Compliance	Hungarian law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating	Yes	The integrated railway undertakings with a national operational license are obliged to provide, in accordance with a separate law, separate accounts in

[248] Correnspondence with National Transport Authority, (NKH), May 2009

Article	Issue	Compliance	Hungarian law
	to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..’		the following activities: - operation of the railway infrastructure, - rail passenger transport, - carriage of goods by rail, - traction.
6.1(a)	Requirement to publish separated accounts	No	We were unable to identify legislation referring specifically to the need to publish the separated accounts.
6.1	‘Public funds paid to one of these two areas of activity may not be transferred to the other.’	Yes	Cross subsidies between the management of the railway system and any other activities of the integrated railway undertaking is prohibited
6.1	‘The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.’	Yes	MÁV and GySEV are ordered to ensure that the open access railway infrastructure managed by them is accessible under agreements that are based on a system of accounting documents that allows monitoring of the entire process, from the purchase of the services to the payment of the charges, and are consistent with the principles of accounting separation.
6.2	‘Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.’	Yes	Properly separated from an accounting point of view, the activity of the infrastructure manager, the passenger railway undertaking and the freight railway undertaking can be performed within the same organisation (the railway company).
9.4	Separate profit and loss accounts and either balance sheets or annual statements of assets and liabilities kept and published for freight transport services.	Yes	The integrated railway undertakings with a national operational license are obliged to provide, in accordance with a separate law, separate accounts in the following activities: - operation of the railway infrastructure, - rail passenger transport, - carriage of goods by rail, and - traction.
9.4(a)	Requirement to publish separated accounts	No	We were unable to identify legislation referring specifically to the need to publish the separated freight accounts.
9.4	Funds paid for activities relating to the provision of passenger services as public	Yes	Regarding rail passenger transport, national integrated railway undertakings and public service

Article	Issue	Compliance	Hungarian law
	service remits must be shown separately in the accounts		providers shall separate accounts.
9.4	These funds must not be transferred to activities relating to the provision of other transport services or any other business.	No	No legislative provision was found. However, it could also be articulated in the accounting separation guidelines.

12.4.6 In our opinion, the accounting separation directives are not fully transposed into the national legislation of Hungary. Specifically:

- Article 6.1 – There is no reference to the requirement to publish separated passenger and infrastructure management accounts.
- Article 9.4 – We were unable to identify any requirement to publish separate freight accounts.
- Article 9.4 – Although 'cross subsidisation' is prohibited, we were unable to identify any specific mention of the prohibition on the transfer of PSO funds.

12.4.7 We understand that it is the duty of the National Transport Authority; Dept of Railway Regulation to monitor company compliance with accounting separation legislation.

Table 155 Public funding

Year	2004		2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
Investment loans	23		93		115		24	
Operating loans	205		85		431		0	
Equity	28	DMU Cars purchased	61	DMU Cars purchased	-227	DMU Cars purchased & renewal of rolling stock	5	DMU Cars purchased & renewal of rolling stock
Grants	219	Production subvention	201	Production subvention	299	Production subvention	634	Production subvention
Grants	91	Consumer price subsidisation	94	Consumer price subsidisation	94	Consumer price subsidisation	80	Consumer price subsidisation
Grant for investment	64		72		142		57	
Tax refund	23		22		22		22	
Subsidies for employment policy	4		11		3		0	
Extraordinary damages	0		0		2	e.g. floods	1	e.g. floods
Other	0		0		0		0	
Total	658		638		882		824	

12.4.8 The above table shows the funding received paid by the state to MAV Zrt. and GySEV Zrt. between 2004 and 2007 according to the regulator (NKH) and the intended uses of those funds.[249] The total amount of funding from the state to the railway sector increased considerably between 2004 and 2007.

[249] Correspondence with the National Transport Authority (NKH), May 2009

12.5 Sources of Information

12.5.1 Hungarian laws and regulations:

- Act XCV of 1993 on the Railway
- Act No. CLXXXIII on railway transport, 2005[250]
- Decision No. 20/2006 of the Hungarian Rail Office

12.5.2 Annual accounts:

- MAV Zrt. Annual Reports 2004 – 2007
- MAV Group Annual Reports 2004 – 2007
- MAV Cargo Zrt. Annual Reports 2006 – 2007
- GySEV Annual Reports 2004 – 2007

12.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- Correspondence with MAV, December 2008
- Correspondence with GySEV, January 2009
- Correspondence with VPE, December 2008
- Correspondence with National Transport Authority (NKH), May 2009

12.6 MÁV Zrt

12.6.1 MAV Zrt (Magyar Államvasutak Részvénytársaságot) is the fully state-owned, integrated railway company, providing the passenger, infrastructure and, until 2008, freight services to much of Hungary.

12.6.2 In 2005/2006, MAV Zrt was transformed into a group structure. The cargo business was 'outsourced' (as stated in the company's 2007 annual report) from 1 January 2006, while the passenger transport business was outsourced on 1 July 2007, both to legally separate operating subsidiaries. Since 2007, therefore, the parent company's main activity has been the operation of the railway network.

12.6.3 Our understanding is that, as at 2007, the operations of the Group might still be divided into five profit centres, namely (i) infrastructure management and services (ii) passenger transport (iii) freight transport (iv) traction and maintenance and (v) property management. These profit centres incorporate the wholly-owned (domestic and foreign) operating subsidiaries in the relevant area, as well as other Group interests and associated companies. In 2007, key operating subsidiaries include:

- MÁV Start – rail passenger services
- MÁV Cargo – rail freight services (which has since been sold to Rail Cargo Austria AG in 2008)
- MÁV Transpsped – transportation, cargo handling, warehousing and other services
- MÁV Tiszavas Miskolci Jarmujavito Kft – rolling stock leasing business
- MÁV GEP – rail track maintenance services.

[250] http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0500183.TV

12.6.4 Published 2007 accounts are available on a consolidated basis for the MÁV Group, for the parent company and for the cargo subsidiary, MÁV Cargo – which was separated on 1st January 2006. We understand that separated accounts for MAV Start Zrt. were submitted to the regulator for the financial year ending 2007, and the 2008 accounts are published on the company website. We have managed to obtain separate accounts for MAV Cargo Zrt., MAV Zrt. and the group's consolidated accounts.

12.6.5 Although MAV Cargo Zrt. is no longer part of MAV Group (since 2008), we shall include it in our review of the accounts, as they were part of MAV Group in 2007.

12.6.6 Our review of the group accounts is is presented in Table 156 below.

Table 156 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	2007: Ernst & Young provided a 'true and fair' opinion, and drew attention to: • Company's survival was dependent on continuing financial support from shareholders. • There were unresolved concerns relating to ownership of company assets • Extraordinary depreciation on state owned properties is dependent on approval of Government • 2006: Opinion was qualified in relation to the • "appropriateness of valuation of assets of the Passenger Transportation and the Railway Track divisions" on which the auditors were not able to satisfy themselves
Transparency	Partial	The Group consolidated accounts provide balance sheet totals, equity, issued capital, net sales, payroll costs and pre-tax profit/loss for each of 16 fully consolidated entities. The summary numbers provided for the parent company in the Group accounts also reconciled with the separate annual report produced for the parent company. Likewise in respect of MÁV Cargo, for which separate accounts are also available.
Visibility of transfers from/to other rail businesses	Partial	The parent company's annual report includes a dedicated section on the methods used to achieve the accounting separation requirements. It states that separation is done in a way that management/control (over activities, divisions and corporate) is equally allocated among the separated activities, these being: • Rail network operations, • Passenger transport, including passenger transport done as a public service, • Traction (when licensed) • Other activities There is also a section on changes in the company's operations, which includes some details of asset sales

Issue	Quality	Comment
		between the parent and operating subsidiaries as well as the transfer of government- and EU-funded projects, along with the relevant subsidies, to operating subsidiaries. However, a 2008 State Audit Office report was critical of the lack of clarity relating to asset ownership at MÁV.[251] Some details of external sales are provided
Visibility of intra-group transfers	Good	The parent company's annual report states that 'Internal settlements among MÁV ZRt's separable activities are accounted for in accordance with the internal settlement policies (BTSZ): cost is recognised on the part of the separable activity which requested the other's service, and revenue is recognised on the part of the delivering activity. During the year, the charges applied are those set out in BTSZ (in the case of open track access services, HÜSZ tariffs). At year-end, transactions based on HÜSZ tariffs are recognised at HÜSZ tariffs while business activities (profit oriented activities) are recognised at the lower of the BTSZ charge and the fair value. Internal services are not considered profit oriented where their budgeted external sales revenues remain below 10% of the Company's total budgeted annual sales revenues. In the case of these services, the difference between the actual calculated direct cost and the BTSZ tariff is recognised.' Detailed schedules of internal transfers are provided.

12.6.7 Our review of MÁV's compliance with the requirements of Directive 2001/12/EC is presented in Table 157 below.

[251] Summary of the Audit on the Modernization of Rail Transport. 24 July 2008 State Audit Office of Hungary.

Table 157 MÁV Group’s compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Separate accounts are produced for infrastructure management (MAV Zrt.), freight (MAV Cargo Zrt.) and passenger (MAV Start Zrt.) as they became separate legal entities from July 2007. Before MAV Start Zrt was formed as a separate entity, these included separate P&Ls and balance sheets for passenger and infrastructure management activities.
6.1(a)	Requirement to publish separated accounts	Yes	Separate accounts are published for MAV Zrt. (for infrastructure management) and MAV Start Zrt and both are available for download from the companies’ respective websites.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	We have not identified any evidence suggesting the transfer of public funds between the MAV Group subsidiaries is occurring.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	Freight, passenger and infrastructure activities are performed by separate legal entities in 2007.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	MAV Cargo is a separate company with separate accounts and, in 2008, MAV Group sold its freight operating division to Rail Cargo Austria AG.
9.4(a)	Requirement to publish separated accounts	Yes	Separate accounts for MAV Cargo Zrt. are published on the company website.
9.4	Funds for PSO transport activities shown separately in accounts	No	In the 2007 MAV Zrt. accounts, PSO funding and the uses of these funds are visible in the accounts in a separate P&L. However, no detail is given of different PSO contracts and only single, aggregated figures are given.[252]
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	The use of passenger PSO public funds is set out in MAV Zrt.’s annual reports in a separate P&L.

[252] MAV Zrt. Annual Report 2007, p 95

12.6.8 In our opinion, MAV Zrt. is not wholly compliant with the requirements of the EC directives, however, their non compliance only extends to the failure to show each individual PSO contract amount and the uses of that funding and to the level of detail given in their statutory accounts.

12.6.9 In Table 158 we show the summary operational and financial data that we have extracted from consolidated accounts of the MÁV Group. The accounts are denominated in Hungarian Forint (HUF) and produced on a calendar year basis, so we used the calendar year average exchange rate with the Euro for the purposes of conversion.

Table 158: Summary consolidated operational and financial data for the MÁV Group

MÁV Group

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	972	1,017	1,076	1,489
Revenue from infrastructure charges	-	-	-	-
Total subsidisation	-	-	298	808
Wages, Salaries, Social Security Payments	576	603	591	676
Operating costs	1,179	1,337	1,359	1,511
Operating profit	(207)	(320)	(283)	(22)
Financial expenses	45	50	88	91
P&L on ordinary activities before tax	(218)	(354)	(334)	(88)
Total fixed assets	2,820	2,832	3,048	3,145
Long term receivables	-	-	-	-
Total current assets	324	373	458	505
Trade debtors	64	73	81	72
Other debtors	86	92	92	101
Current asset investments	0	0	0	2
Cash at bank and in hand	54	56	97	133
Creditors: <1yr (Current Liabilities)	673	903	848	649
Creditors: >1yr	1,945	2,033	2,681	2,840
Provisions for liabilities and charges	49	53	107	122
Equity	477	215	(129)	39
	No. / Km			
Average no. employees	56,611	52,197	49,502	47,211
Managed kilometres	-	-	-	-

12.6.10 The corresponding set of financial and other ratios is presented in Table 159.

Table 159: Financial ratios for the MÁV Group

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	972	1,017	1,076	1,489
Net profit (€m.)	(218)	(354)	(334)	(88)
Operating profit (€m.)	(207)	(320)	(283)	(22)
Total assets (€m.)	3,144	3,204	3,507	3,650
Profitability				
Operating profit margin	-21%	-31%	-26%	-1%
Net margin	-22%	-35%	-31%	-6%
Return on assets	-7%	-11%	-10%	-2%
Return on equity	-46%	-164%	258%	-225%
Viability ratio	0.82	0.76	0.79	0.99
Efficiency				
Liabilities / operating costs	2.26	2.24	2.67	2.39
Cost per staff member (€ '000)	20.82	25.61	27.46	32.00
Staff costs as a proportion of operating costs	48.8%	45.1%	43.5%	44.7%
Unit operating costs (€ '000)	-	-	-	-
Total revenue per managed km (€ '000)	-	-	-	-
Indebtedness				
Total debt of the company (€m.)	624.14	900.47	1,336.49	1,025.11
Debt / Total liabilities	23.4%	30.1%	36.8%	28.4%
Debt: Equity ratio	1.31	4.18	-10.35	26.17
Quick ratio	0.30	0.25	0.32	0.47
Current ratio	0.48	0.41	0.54	0.78
Debt service coverage ratio	(4.57)	(6.39)	(3.22)	(0.24)
Public funding				
Total public income (€m.)	0.00	0.00	297.70	807.64
Public funding / costs	0%	0%	22%	53%
Public funding / revenue	0%	0%	28%	54%

12.6.11 The financial data for MAV Group in Table 158 and Table 159 shows increasing debt levels between 2004 and 2006 and a reduction in 2007. The reasons for this, are unclear. Notably, in 2007 the operating profit margin improved considerably and the losses the company was made each year have fallen considerably from a high of €354m to €88m.

12.6.12 It should be noted that over this period, the structure of the company has changed considerably, from a fully integrated company to a holding company structure with separate subsidiaries for freight, passenger and infrastructure operations. Therefore, the figures are not necessarily comparable from year to year.

12.6.13 Similar data is presented for the passenger transport segment in Table 160 below.

Table 160: Summary operational and financial data for MÁV passenger transport

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	0	0	541	400
Revenue from Passenger transport	0	0	531	122
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	6	7
Wages, Salaries, Social Security Payments	0	0	63	35
Operating costs	0	0	668	388
Operating profit	0	0	-126	12
Financial expenses	0	0	44	27
P&L on ordinary activities before tax	0	0	-161	-14
Total fixed assets	0	0	480	3
Long term receivables	0	0	1	0
Total current assets	0	0	68	14
Trade debtors	0	0	3	1
Other debtors	0	0	7	5
Current asset investments	0	0	0	0
Cash at bank and in hand	0	0	1	0
Creditors: <1yr (Current Liabilities)	0	0	269	306
Creditors: >1yr	0	0	715	0
Provisions for liabilities and charges	0	0	5	0
Equity	0	0	-439	-289
	No. / Km			
Average no. employees	0	0	0	0
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

12.6.14 Some corresponding financial ratio information is presented in Table 161 below.

Table 161: Financial ratios for MÁV passenger transport

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	0	0	541	400
Net profit (€m)	0	0	-161	-14
Operating profit (€m)	0	0	-126	12
Total assets (€m)	0	0	550	17
Profitability				
Operating profit margin	-	-	-23%	3%
Net margin	-	-	-30%	-3%
Return on assets	-	-	-29%	-85%
Return on equity	-	-	37%	5%
Viability ratio	-	-	1	1
Efficiency				
Liabilities / operating costs	-	-	1.5	0.8
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	-	-	9%	9%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	0	0	125	294
Debt / Total liabilities	-	-	13%	96%
Debt: Equity ratio	-	-	-0.3	-1.0
Quick ratio	-	-	0.0	0.0
Current ratio	-	-	0.3	0.0
Debt service coverage ratio	-	-	-2.9	0.4
Public funding				
Total public income (€m)	0	0	6	7
Public funding / costs	-	-	1%	2%
Public funding / revenue	-	-	1%	2%

12.6.15 The data in Table 161 and Table 162 shows that the profitability of MAV's passenger activities improved from 2006 to 2007, despite a fall in revenues. During this time, the debt of the company increased by over 100 percent. It is worth noting that in July 2007, the passenger activities were separated into a new subsidiary in the MAV Group called MAV Start Zrt. The passenger activities, therefore, are no longer carried out by MAV Zrt. and

12.6.16 MÁV Cargo provides rail freight services. The company was structurally separated from MÁV Group in 2006.

12.6.17 In 2008, MAV Cargo was acquired by the Austrian state-owned Rail Cargo Austria (RCA). In its review of the proposed merger, the European Commission expressed its concerns that RCA's links with the other Hungarian freight operator GySEV, would have effectively removed the closest potential competitor for RCA in the Hungarian rail freight market and for MÁV Cargo in Austria.

12.6.18 Conditions were, therefore, attached to the merger dissolving the interest in GySEV and changing the structure of RCA's freight-forwarding companies. Both Hungarian and Austrian governments are the main shareholders in GySEV and are now required to ensure that it is strengthened as an independent player and a competitor to the new entity created by the RCA/MÁV Cargo merger.

12.6.19 Operational and financial data for the cargo segment of the MÁV Group is presented in Table 162.

Table 162: Summary financial data for MÁV freight transport

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	0	0	353	355
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	0	352	347
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	0	0	43	49
Operating costs	0	0	340	354
Operating profit	0	0	13	2
Financial expenses	0	0	7	4
P&L on ordinary activities before tax	0	0	12	5
Total fixed assets	0	0	120	130
Long term receivables	0	0	0	0
Total current assets	0	0	101	88
Trade debtors	0	0	0	0
Other debtors	0	0	84	71
Current asset investments	0	0	0	0
Cash at bank and in hand	0	0	0	0
Creditors: <1yr (Current Liabilities)	0	0	95	90
Creditors: >1yr	0	0	1	1
Provisions for liabilities and charges	0	0	1	1
Equity	0	0	124	126
	No. / Km			
Average no. employees	0	0	3,013	0
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	7,604	7,759
Managed kilometres	0	0	0	0

Table 163 Summary Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	0	0	353	355
Net profit (€m)	0	0	12	5
Operating profit (€m)	0	0	13	2
Total assets (€m)	0	0	221	217
Profitability				
Operating profit margin	-	-	4%	1%
Net margin	-	-	3%	1%
Return on assets	-	-	5%	2%
Return on equity	-	-	9%	4%
Viability ratio	-	-	1	1
Efficiency				
Liabilities / operating costs	-	-	0.3	0.3
Cost per staff member (€ '000)	-	-	113	-
Staff costs as a proportion of operating costs	-	-	13%	14%
Unit operating costs (€ '000)	-	-	45	46
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	0.05	0.05
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	0	0	0	0
Debt / Total liabilities	-	-	0%	0%
Debt: Equity ratio	-	-	0.0	0.0
Quick ratio	-	-	0.9	0.8
Current ratio	-	-	1.1	1.0
Debt service coverage ratio	-	-	2.0	0.5
Public funding				
Total public income (€m)	0	0	0	0
Public funding / costs	-	-	0%	0%
Public funding / revenue	-	-	0%	0%

12.6.20 We have only been able to obtain accounts for MAV for 2006 and 2007. These show that revenues remained steady between 2006 and 2007 at around €355m and that assets remained at around €220m. However, the costs have clearly increased (operating costs by around €14m) which has forced the operating profit margin down from 4% to 1%.

12.7 GySEV Zrt

12.7.1 GySEV Zrt is one of two incumbent operators in Hungary. It is jointly owned by the Hungarian state (61%), the Austrian state (33.3%) and Speditions Holding GmbH (5.7%).[253]

12.7.2 GySEV Zrt. performs freight, passenger and infrastructure operations in separate business units within the company. Its passenger division predominantly operates in eastern Austria and Western Hungary. In Austria, it cooperates with ÖBB. In Hungary, GySEV owns much of its own rail infrastructure, although for international traffic it has to pay MÁV for the use of its network. The allocation of both incumbent operators' capacity is determined externally by VPE.

[253] Gysev website, www.gysev.hu, February 2009

12.7.3 Our review of GySEV's annual reports is presented in Table 164 below.

Table 164: Accounting issues

Issue	Quality	Comment
Audit Assurance	Partial	For year ended 31 Dec-04: Qualified opinion except for disagreement on missing pension provisions totalling €19.5m relating to pension obligations for operations in Austria, and an emphasis of matter paragraph. • Disagreement: The Austrian Ministry of Transport (BMVIT) made a shareholders contribution for the year ending 31 Dec-05 totalling €18.3m to cover these • Emphasis of matter relates geographic split and presentation currencies detailed below. For year ended 31 Dec-05: Unqualified opinion with emphasis of matter paragraph, relating to geographic split and presentation currencies detailed below. For year ended 31 Dec-06 Audit Opinion attached to accounts refers to previous year ending (i.e. 31 Dec-05). From the context of information this could be a mistake by the Auditor's, however this is unconfirmed. Unqualified opinion with emphasis of matter paragraphs: • Explaining that Audit report was prepared to be presented at Annual General Meeting • Relating to geographic split and presentation currencies detailed below. • Other operational matters.
Visibility of transfers from/to other rail businesses	Partial	Some information is provided, but insufficient to enable full analysis
Visibility of intra-group transfers	Partial	Some information is provided, but insufficient to enable full analysis

12.7.4 A skeleton review of GySEV's compliance with the requirements of Directive 2001/12/EC is presented in Table 165 below.

Table 165 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Hungarian and Austrian operations are consolidated, with separate accounts prepared for 'Infrastructure' and 'operations'.
6.1(a)	Requirement to publish separated accounts	No	Not available for download at website
6.1	'Public funds paid to one of these two areas of activity may not be	Yes	We did not identify any evidence suggesting that public funds are being transferred between infrastructure and

	transferred to the other.’		transport activities’
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by GySEV. Please see chapter 29 for further information on the requisite information.
6.2	‘Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.’	Yes	The activities are broken into separate business divisions on a national basis (i.e. Austrian and Hungarian operations are broken down separately)
9.4	’In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.’	Yes	The freight activities are shown separately on a national basis (i.e. Austrian and Hungarian operations are broken down separately), however, in the joint consolidated accounts, there is no split.
9.4(a)	Requirement to publish separated accounts	No	Not available at website for download.
9.4	’Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	No	The PSO is shown as a single consolidated figure, however, this is not broken down into individual contracts.
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	We did not identify any evidence suggesting that public funds are being transferred between infrastructure and transport activities.

12.7.5 In our opinion, the accounts for GySEV are not compliant with the requirements of the EC directives on accounting separation. Specifically:

- Article 6.1 – The accounts are not published.
- Article 6.1 – The accounts are not kept in a way which reflects the prohibition on the transfer of public funds. The statutory accounting framework does not require sufficient detail to detect cross subsidisation.
- Article 9.4 – The accounts are not published.
- Article 8.4 – PSO funding is not disaggregated into different PSO contracts.

12.7.6 We note that due to the relatively unique structure of GySEV (the fact that it is split across two countries) analysis is very difficult to conduct in full. Due to accounting and currency differences, the separated accounts are only produced on a national basis, not for the company as a whole.

12.7.7 The public funding made available to GySEV is shown in Table 166 below.[254]

[254] Correspondence with GySEV, January 2009

Table 166: Public funding made available to GySEV

€ million	Use of funds	2004	2005	2006	2007
PSO funds	Passenger & infrastructure operations	6.48	11.01	14.66	23.16
Equity	Infrastructure & other investments		1.21	1.14	1.2
Grants	Infrastructure investment	6.48	2.18	2.62	4.31[255]

12.7.8 Data on the company's operational and financial performance is presented in Table 167 below. Corresponding financial ratios are presented in Table 168.

Table 167: Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	118	137	143	0
Revenue from Passenger transport	16	19	24	0
Revenues from Freight transport	45	54	58	0
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	31	32	35	0
Operating costs	123	142	146	0
Operating profit	-5	-5	-3	0
Financial expenses	2	2	5	0
P&L on ordinary activities before tax	-5	-3	-3	0
Total fixed assets	0	0	0	0
Long term receivables	0	0	0	0
Total current assets	0	0	0	0
Trade debtors	0	0	0	0
Other debtors	0	0	0	0
Current asset investments	0	0	0	0
Cash at bank and in hand	0	0	0	0
Creditors: <1yr (Current Liabilities)	0	0	0	0
Creditors: >1yr	0	0	0	0
Provisions for liabilities and charges	0	0	0	0
Equity	0	0	0	0
	No. / Km			
Average no. employees	0	0	0	0
Passenger-kilometres (m)	181,317	0	0	0
Tonne-kilometres (m)	634,095	0	0	0
Managed kilometres	0	0	0	0

[255] 2007 figures include a grant for the modernisation of Sopron Szombathely-Szentgotthard railway line amounting to €2.48m

Table 168: Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	118	137	143	0
Net profit (€m)	-5	-3	-3	0
Operating profit (€m)	-5	-5	-3	0
Total assets (€m)	0	0	0	0
Profitability				
Operating profit margin	-4%	-4%	-2%	-
Net margin	-4%	-2%	-2%	-
Return on assets	-	-	-	-
Return on equity	-	-	-	-
Viability ratio	1	1	1	-
Efficiency				
Liabilities / operating costs	0.0	0.0	0.0	-
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	25%	23%	24%	-
Unit operating costs (€ '000)	1	-	-	-
Total Revenue per Passenger Km (€)	0.00	-	-	-
Total Revenue per Freight Km (€)	0.00	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	0	0	0	0
Debt / Total liabilities	-	-	-	-
Debt: Equity ratio	-	-	-	-
Quick ratio	-	-	-	-
Current ratio	-	-	-	-
Debt service coverage ratio	-2.6	-3.1	-0.5	-
Public funding				
Total public income (€m)	0	0	0	0
Public funding / costs	0%	0%	0%	-
Public funding / revenue	0%	0%	0%	-

12.7.9 We have been unable to obtain accounts for GySEV for 2007 and have been unable to produce a full set of ratios for the company for the years 2004 – 2006 due to the multi-national nature of the company's structure. We note, however, that revenues have steadily increased for the company between 2004 and 2007, although the company continues to make a small loss.

12.8 Conclusions

12.8.1 From the evidence available, we can conclude that:

- The accounting separation directives are not fully transposed into the country's national legislation. There is no reference to the need to publish the separated freight and infrastructure accounts and, though cross subsidization is prohibited, we were unable to identify specific mention of the prohibition on the transfer of PSO funding.
- MAV is not wholly compliant with the requirements of the EC directives, however, this only extends to the failure to disaggregate PSO funding and to show each individual PSO contract amount. Further, the statutory account structure is not sufficient to detect illegal cross subsidies.
- GySEV has an unusual structure in as much as it is spread across two countries (Austria and Hungary). The differences in accounting systems and currencies makes it extremely difficult to separate the accounts by activity on a company wide basis. Therefore, the accounts are separated into the two national divisions and these divisions are further separated into activities. We believe this to be in compliance with the directives.
- However, GySEV does not publish its accounts and PSO funding is not disaggregated, rendering it non compliant.

13 IRELAND

13.1 Industry Overview

13.1.1 Passenger and freight railway services in the Republic of Ireland are provided by a single incumbent, Iarnród Éireann. The company is an integrated railway undertaking, responsible for managing its own infrastructure, which includes the country's 2,288km of track. The company is a subsidiary of Córas Iompair Éireann (CIÉ), a publicly-controlled holding.

13.1.2 Although there has been open access to the Irish rail network for rail freight operators since January 2007, Iarnród Éireann currently remains the only rail freight operator in the Republic of Ireland. However, rail passenger transport services are still reserved exclusively for Iarnród Éireann.

13.1.3 To date, no law has been adopted for the establishment of a regulatory authority. This is the result of an exemption negotiated by Ireland in connection with Directive 2001/14/EC. The exemption expired in March 2008, but could be renewed if certain conditions are met. According to the country's Department of Transport, Ireland has applied for an extension of the exemption for a further five years.

13.1.4 On 26 June 2008 a letter of formal notice of an infringement was issued by the European Commission in relation to the manner of implementation of Directive 2001/14/EC. This related in the main to the absence of an infrastructure charging regime and failure to transpose Article 6 of Directive 2001/14/EC.

13.1.5 Rail does not play as significant a role in Ireland's transport market as it does in the transport markets of many other European countries. The modal share of rail freight dropped substantially from 9.8 per cent in 1995 to less than 1 per cent in 2007. The modal share of rail passenger transport has remained broadly stable – at around 5% - since 1995.

13.2 List of Railway Undertakings

13.2.1 The sole railway undertaking active within the Republic of Ireland is Iarnród Éireann which is an integrated infrastructure manager and rail operator[256]. For more details on this company's activities, see Section 17.7 below.

13.3 Industry Regulator & Government Departments

13.3.1 The **Department of Transport** (www.transport.ie) is responsible for railway policy and oversight of railway services and infrastructure in the Republic of Ireland. The Department has existed in its current form since 2002. The Minister for Transport is responsible for appointing members of CIÉ's board.

13.3.2 As explained above, an independent regulatory authority has not yet been established in the Republic of Ireland. Instead, the Department for Transport currently provides regulatory oversight.

[256] In addition to the national rail network, which is operated and maintained by Iarnród Éireann, the Republic of Ireland also has a separate narrow gauge industrial network which is dedicated to the transportation of peat. This network is maintained and operated by Bord na Móna, which supplies peat as a fuel to electricity generating stations. Given its specialist function and its separation from Ireland's national railway network, the peat network is not covered in this report.

13.4 Legal Framework

13.4.1 European Directive 2001/12/EC was transposed into national law in 2003 by means of Statutory Instrument No. 536/2003. The relevant sections of this Statutory Instrument are set out below. For the full text, please go to: http://www.irishstatutebook.ie/2003/en/si/0536.html.

Extract from Irish law:

S.I. No. 536 of 2003

REGULATIONS

entitled

European Communities (Access to Railway Infrastructure) Regulations, 2003

PUBLISHED BY THE STATIONARY OFFICE, DUBLIN…

…4. Separation of accounts	*(1)*	*Any railway undertaking which is also the Infrastructure Manager shall keep and publish, annually, separate profit and loss accounts and balance sheets, on the one hand for business relating to the provision of rail transport services, and, on the other, for business relating to the management and maintenance of the railway infrastructure.*
	(2)	*Any railway undertaking to which the provisions of paragraph (1) apply shall ensure that state aid granted to that railway undertaking for the provision of transport services is not transferred for use in the management of the railway infrastructure. The accounts of such a railway undertaking shall be maintained so as to reflect this prohibition.*
	(3)	*Any railway undertaking shall keep and publish, annually, separate profit and loss accounts and, either, balance sheets or statements of assets and liabilities in respect of the provision of rail freight-transport services. Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts. Such funds must not be transferred for use in activities relating to the provision of other transport services or any other business.*

Table 169 Transposition of EC Directive 2001/EC/12

Article	Issue	Transposition	Law
6.1	‘Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are **kept** (emphasis added)…, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..’	Yes	‘Any railway undertaking which is also the Infrastructure Manager shall keep and publish, annually, separate profit and loss accounts and balance sheets, on the one hand for business relating to the provision of rail transport services, and, on the other, for business relating to the management and maintenance of the railway infrastructure.’ *Article 4.1*
6.1(a)	Requirement to publish separated accounts	Yes	‘Any railway undertaking which is also the Infrastructure Manager shall keep and publish, annually, separate profit and loss accounts and balance sheets, on the one hand for business relating to the provision of rail transport services, and, on the other, for business relating to the management and maintenance of the railway infrastructure.’ *Article 4.1*
6.1	‘Public funds paid to one of these two areas of activity may not be transferred to the other.’	Partial (i)	‘Any railway undertaking to which the provisions of paragraph (1) apply shall ensure that state aid granted to that railway undertaking for the provision of transport services is not transferred for use in the management of the railway infrastructure.’ *Article 4.2*
6.1	‘The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.’	Partial (i)	‘The accounts of such a railway undertaking shall be maintained so as to reflect this prohibition.’ *Article 4.2*
6.2	‘Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.’	Yes (ii)	We did not encounter any legislation relating to this point, however, the word ‘may’ implies optionality.
9.4	’In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be **kept** (emphasis added)… for businesses relating to the provision of rail freight transport services.’	Yes	‘Any railway undertaking shall keep and publish, annually, separate profit and loss accounts and, either, balance sheets or statements of assets and liabilities in respect of the provision of rail freight-transport services.’ *Article 4.3*

9.4(a)	Requirement to publish separated accounts.	Yes	'Any railway undertaking shall keep and publish, annually, separate profit and loss accounts and, either, balance sheets or statements of assets and liabilities in respect of the provision of rail freight-transport services.' *Article 4.3*
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts.' *Article 4.3*
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	'Such funds must not be transferred for use in activities relating to the provision of other transport services or any other business.' *Article 4.3*

Notes:

(i) Article 6.1 stipulates that 'public funds paid to one of these two areas of activity [infrastructure management and transport services] may not be transferred to the other.' In other words, there is a two-way prohibition on transfers between these activities. However the Irish regulations only prohibit the transfer of public funds from transport services activities to infrastructure management activities. There is no explicit prohibition on the transfer of public funds from infrastructure management activities to transport services activities. Furthermore, the Irish regulations only prohibit the transfer of 'state aid', not 'public funds'.

(ii) Article 6.2 has not been transposed into Irish law. However, it should be noted that, in practice, Ireland's integrated railway undertaking (Iarnród Éireann) does have separate divisions for its infrastructure management and train operation activities

13.4.2 It is unclear from the legislation who is responsible for overseeing its implementation. There is no reference to a regulator or other body who will perform this function.

13.4.3 In our view, Ireland has not fully transposed the EU directive on accounting separation. Their national law does pick up the main vertical and horizontal accounting separation requirements (apart from the article regarding organising the business into separate divisions). However, it fails to properly incorporate those articles about prohibiting the movement of funds between infrastructure and operations and ensuring that this is reflected in the accounts.

13.5 Sources of Information

The following sources were used to compile the information set out in this chapter:

- Iarnród Éireann's financial statements were accessed from Ireland's Companies Registration Office (www.cro.ie)
- Ireland's Department of Transport (www.transport.ie) provided information regarding the general structure of the rail industry in Ireland.

- CIÉ (www.cie.ie) provided information regarding the structure of Iarnród Éireann.
- Information regarding the integration of European Directive 2001/12/EC into national law was acquired from the Irish Statute Book database (www.irishstatutebook.ie).
- Passenger and freight kilometre data for Ireland was acquired from Eurostat (http://epp.eurostat.ec.europa.eu)

13.6 CÓRAS IOMPAIR ÉIREANN

13.6.1 Córas Iompair Éireann (CIÉ) is a Statutory Corporation, solely owned by the Irish Government. It has five wholly-owned subsidiaries, three of which are based in Ireland and two are not.

13.6.2 Three of these subsidiaries are limited liability companies set up under the Companies Act as provided for in the Transport (Reorganisation of Córas Iompair Éireann) Act 1986. Each of these three subsidiaries specialises in the provision of public transport services in Ireland. They are:

(i) Iarnród Éireann, Ireland's integrated railway undertaking (see below);
(ii) Bus Éireann, which provides bus services across Ireland, with the exception of services offered entirely within Dublin; and
(iii) Bus Átha Cliath, which provides bus services in Dublin.

13.6.3 CIÉ's other two subsidiaries are:

(iv) CIE Tours International Incorporatred, a US-incorporated tour operator; and
(v) Dubel Limited, a company incorporated in Northern Ireland where it provides catering services for Northern Ireland Railways.

13.6.4 Quality of financial statements

Table 170 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of PricewaterhouseCoopers, the financial statements give a true and fair view, in accordance with the Generally Accepted Accounting Practice in Ireland, of the state of the affairs of Córas Iompair Éireann and of the Group as at 31 December, 2007 and of the surplus and cash flows of the Group for the year then ended.[257]
Transparency	Good	The accounts meet the standards of presentation required by the Generally Accepted Accounting Practice in Ireland and the Companies Acts, 1963 to 2006.
Visibility of transfers from / to other rail businesses	N/A	Currently the only provider of domestic passenger and freight railway services and the only infrastructure manager in the Republic of Ireland is Iarnród Éireann, a wholly-owned subsidiary of CIÉ. Therefore there are no payments for track access or use of rolling stock.
Visibility of intragroup transfers	Good	Financial transfers between CIÉ and each of its five wholly owned subsidiaries are clearly set out in the notes to the financial statements.

[257] Similar findings for the company's financial statements in preceding years

13.6.5 Public funding

The table below summarises the public funding data disclosed in the group accounts.

Table 171 Public Funding

Year	2004	2005	2006	2007
Type	Amount (€m)	Amount (€m)	Amount (€m)	Amount (€m)
Loans	-	-	-	-
Equity	-	-	-	-
Iarnród Éireann Grants	181.98	193.33	202.38	203.49
NDP Grants**	146.44	289.02	283.97	465.66
Other Exchequer Grants	2.50	3.74	20.66	11.45
Debt Write-offs	-	-	-	-
Other***	-	-	-	-

Source: CIE consolidated accounts

- For a more detailed breakdown of public funding for this subsidiary, please see the section on Iarnród Éireann below.

** These are grants associated with Ireland's *National Development Plan* (NDP) – a multi-billion euro scheme designed to upgrade the country's infrastructure. It should be noted that only a part of this grant was earmarked for railway investment. For further detail on the breakdown of the NDP grants, please refer to the public funding table for Iarnród Éireann.

*** It should be noted that CIÉ's two subsidiary bus operators also received public grants (not displayed in the table above) during the period of study. The total amount of public funding received by the group in each year was as follows:

Year	2004	2005	2006	2007
Total funding (€m)	416.72	576.18	603.32	797.28

13.6.6 Performance

Table 172 Summary financial data for CIÉ group

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	951.33	987.95	1,045.09	1,105.68
Passenger Revenue	*	*	*	*
Freight Revenue	*	*	*	*
Unspecified Passenger & Freight Revenue	*	*	*	*
Track & Infrastructure Charges (Passenger)	*	*	*	*
Track & Infrastructure Charges (Freight)	*	*	*	*
Track & Infrastructure Charges (Both)	*	*	*	*
Total subsidisation	315.08	369.48	367.34	408.94
Wages, Salaries, Social Security Payments	556.33	583.35	608.64	645.15
Operating costs	955.82	974.61	1,061.84	1,122.89
Operating profit	(4.48)	13.34	(16.74)	(17.21)
Financial expenses	4.15	2.43	5.18	5.04
P&L on ordinary activities before tax	19.45	25.78	21.99	28.24

Total fixed assets	1,459.14	1,628.22	1,846.11	2,176.92
Long Term receivables	-	-	-	-
Total current assets	135.88	265.16	262.08	294.29
Trade debtors	17.50	26.58	23.73	27.35
Other debtors	19.57	15.57	16.67	18.88
Current asset investments	-	-	-	-
Cash at bank and in hand	2.54	4.85	36.40	49.63
Creditors: <1yr (Current Liabilities)	378.70	397.77	342.54	400.64
Creditors: >1yr	45.50	40.08	101.80	87.50
Provisions for liabilities and charges	176.32	186.15	196.63	172.10
Equity	(78.39)	(60.71)	23.38	120.72
	No. / Million km			
Average no. employees	12,037	11,926	11,816	11,701
Track kilometres managed	*	*	*	*

Source: CIE consolidated financial statements

- CIÉ's railway operations (both infrastructure management and the provision of train services) are all provided by one of its subsidiaries, Iarnród Éireann. Please see the corresponding financial tables for Iarnród Éireann (below) for information on these metrics.

Table 173 Financial Ratios for CIÉ group

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	951.33	987.95	1,045.09	1,105.68
Net profit (€m)	19.45	25.78	21.99	28.24
Operating profit (€m)	(4.48)	13.34	(16.74)	(17.21)
Total assets (€m)	1,595.03	1,893.37	2,108.19	2,471.21
Profitability				
Operating profit margin (%)	-0.5%	1.4%	-1.6%	-1.6%
Net margin (%)	2.0%	2.6%	2.1%	2.6%
Return on assets (%)	1.2%	1.4%	1.0%	1.1%
Return on equity (%)	-24.8%	-42.5%	94.1%	23.4%
Viability ratio	1.00	1.01	0.98	0.98
Efficiency				
Liabilities / operating costs	0.63	0.64	0.60	0.59
Cost per staff member (€'m)	0.08	0.08	0.09	0.10
Staff costs as proportion of operating costs (%)	58.2%	59.9%	57.3%	57.5%
Total Revenue per Passenger Km (€)	*	*	*	*
Total Revenue per Freight Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	424.20	437.85	444.34	488.14
Debt: Equity ratio	(5.41)	(7.21)	19.01	4.04
Quick ratio	0.10	0.12	0.22	0.24
Current ratio	0.36	0.67	0.77	0.73
Debt service coverage ratio	(1.08)	5.48	(3.23)	(3.42)
Public funding				
Total public income (€m)	315.08	369.48	367.34	408.94
Public funding / costs (%)	33.0%	37.9%	34.6%	36.4%
Public funding / revenue (%)	33.1%	37.4%	35.1%	37.0%

Source: CIE consolidated financial statements / Frontier analysis

- CIÉ's railway operations (both infrastructure management and the provision of train services) are all provided by one of its subsidiaries, Iarnród Éireann. Please see the corresponding financial tables for Iarnród Éireann (below) for information on these ratios.

13.6.7 CIÉ's total turnover underwent steady growth between 2004 and 2007, with annual growth rates in the region of 4-6%. Public funding accounted for a relatively high share of total income, increasing from 44% in 2004 to 71% in 2007. This increase was driven primarily by growth in state aid for the National Development Plan (a major national infrastructure investment programme).

13.6.8 CIÉ made an operating loss for three of the four years of the study period, though these were reasonably low, relative to revenues. The group's return on equity, by contrast, was more volatile – and indeed negative in 2004 and 2005, due to negative equity in these years. CIÉ's staff costs accounted for a high proportion of its operating costs, remaining in the 57-60% range throughout the period.

13.6.9 CIÉ remained relatively highly leveraged throughout the period. While the group's debt:equity ratio exhibited volatility, these fluctuations were driven primarily by variations in the group's level of equity. The group's total indebtedness, by contast, remained relatively stable (between £400m and £500m).

13.6.10 CIÉ's current ratio remained well below unity thoughout the period. This low current ratio indicates that the group may be exposed to short term liabilities.

13.7 IARNRÓD ÉIREANN

13.7.1 Iarnród Éireann is an integrated railway undertaking. The company is responsible for maintaining the Republic of Ireland's railway infrastructure, which covers some 2,288km of track. The company also operates Intercity and Commuter Rail passenger services and freight services. Iarnród Éireann is currently the only company in the Republic of Ireland permitted to provide such services.

13.7.2 Iarnród Éireann's activities are not limited exclusively to the railways. The company also manages Rosslare Europort, a seaport in County Wexford. Its parent company is Córas Iompair Éireann (CIÉ), which owns a number of other transport companies.

13.7.3 Quality of financial statements

Table 174 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of PricewaterhouseCoopers, the financial statements give a true and fair view, in accordance with the Generally Accepted Accounting Practice in Ireland, of the state of the company's affairs as at 31 December, 2007 and of the profit and cash flows for the year then ended; and the financial statements have been properly prepared in accordance with the Companies Acts, 1963 to 2006.[258]
Transparency	Good	The accounts meet the standards of presentation required by the Generally Accepted Accounting Practice in Ireland and the Companies Acts, 1963 to 2006.
Visibility of transfers from / to other rail businesses	N/A	Iarnród Éireann is an integrated company and currently the only provider of domestic passenger and freight railway services in the Republic of Ireland. Therefore no such transfers can take place.
Visibility of intragroup transfers	Partial	A "contribution" from Iarnród Éireann's parent company of €1m in 2006 and €5m in 2007 was made but no further details are provided to explain what this relates to. Since the parent company is controlled by the Irish Government, goods purchased from other publicly-controlled entities (principally the vertically-integrated energy utilities – *ESB* and *An Bord Gáis* – and the national postal service operator *An Post*) are also technically related-party transactions. In the notes to its financial statements, the company states that its directors "are of the opinion that the quantum of these purchases [of goods and services from these related parties] is not material in relation to the company's business".

[258] Similar findings for the company's financial statements in preceding years

13.7.4 Compliance with Directive

Table 175 Compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Partial	The notes to the published financial statements include a detailed divisional analysis of the profit and loss account, setting out the separate revenues and costs associated with the provision of train services and infrastructure management. There is no formal divisional analysis of the balance sheet however.
6.1(a)	Requirement to publish separated accounts	No	Separated balance sheets are not published.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	While information regarding public grants is set out in relative detail in the notes to the company's financial statements, the lack of full accounting separation makes it difficult to rule out the possibility that some public funds are being transferred between the company's infrastructure and rail operator divisions. However, we did not encounter any evidence suggesting that public funds are being transferred.
6.1	Accounts kept in a way which reflects this prohibition	No	Details of public support received are set out in the notes to the company's financial statements. However it is difficult to trace the state funding information presented in the profit and loss account back to the more detailed information on public funding presented in the notes to the financial statements. It should be noted though, that very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Ireland and is not provided. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	From the notes to the company's statutory accounts, it is clear that the company has separate divisions for rail services and infrastructure management.
9.4	Separate P&L and balance sheets kept and published for freight operations.	No	Separate balance sheets are not produced.
9.4(a)	Requirement to publish separated accounts	No	Separate balance sheets are not published.

9.4	Funds for PSO transport activities shown separately in accounts	No	PSO funds are separately reported in the notes to the company's financial statements but a breakdown by contract is not provided.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	While PSO funds are separately reported in the notes to the company's financial statements, the lack of full accounting separation makes it difficult to rule out the possibility that funds are being transferred to other businesses. Moreover, Iarnród Éireann received financial contributions from its parent company in both 2006 (€1m) and 2007 (€5m). It is not clear from Iarnród Éireann's financial statements what these contributions were for. However, we did not encounter any compelling evidence suggesting that the transfer of PSO funding is occurring.

13.7.5 In our view, Iarnród Éireann does not comply with the EC directive on accounting separation or the domestic law which transposes it. Although the notes to the financial statements do include a detailed divisional analysis of the profit and loss account, there is no formal divisional analysis of the balance sheet. Therefore fully vertically separated accounts have not been provided. In addition, the company has not published separate profit & loss accounts and balance sheets for its freight operations.

13.7.6 It is not clear whether Iarnród Éireann is complying with the prohibition on the transfer of public funds between infrastructure managers and rail operators nor whether it is complying with the prohibition on the transfer of PSO funds for passenger transport to other businesses. Details of public support received are set out in the notes to the company's published financial statements, however it is difficult to trace the state funding information presented in the profit and loss account back to these notes.

13.7.7 Public funding

The table below summarises the public funding data disclosed in the accounts.

Table 176 Public Funding

Year	2004			2005			2006			2007		
Type	Amount (€m)	Source	Use of funds	Amount (€m)	Source	Use of funds	Amount (€m)	Source	Use of funds	Amount (€m)	Source	Use of funds
Loans	-	-	-	-	-	-	-	-	-	-	-	-
Equity	-	-	-	-	-	-	-	-	-	-	-	-
Capital Grants	135.55	Irish Executive	Investment*	275.68	Irish Executive	Investment*	254.53	Irish Executive	Investment*	404.50	Irish Executive	Investment*
Capital Grants	19.79	EU	Investment	19.46	EU	Investment	6.09	EU	Investment	27.29	EU	Investment
Capital Grants	0.12	Dublin Transportation Office (DTO)	Investment	1.22	Third party	Investment	1.43	Third party	Investment	3.11	Third party	Investment
Revenu e Grants	171.42	Irish Executive	Public service obligation	179.99	Irish Executive	Public service obligation	188.72	Irish Executive	Public service obligation	189.91	Irish Executive	Public service obligation
Revenu e Grants	10.56	Irish Executive	Railway safety (NDP)	13.34	Irish Executive	Railway safety (NDP)	13.66	Irish Executive	Railway safety	13.58	Irish Executive	Railway safety (NDP)
Debt Write-offs	-	-	-	-	-	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-	-	-	-	-	-

* These are grants associated with Ireland's *National Development Plan* (NDP) – a multi-billion euro scheme designed to upgrade the country's infrastructure. According to the notes to Iarnród Éireann's financial statements, the NDP Grants can be broken into the following components:

Table 177 Breakdown of NDP grants

State Grant	2004	2005	2006	2007
Credit against the renewals of railway lines and works (€m)	47.29	67.02	68.66	88.78
Deferred income for offset against depreciation of related fixed assets (€m)	68.11	169.83	141.02	194.18
Deferred funding from CIÉ (€m)	0.00	0.00	9.47	8.24
Finds transferred to CIÉ for Land & Buildings (€m)	20.15	38.83	35.38	113.31
Total NDP Capital Grant (€m)	**135.55**	**275.68**	**254.53**	**404.50**

13.7.8 Performance

Table 178 Summary financial data for Iarnród Éireann

Summary financial data	**2004**	**2005**	**2006**	**2007**
Metric	**Million Euros**			
Total revenue	397.46	415.61	431.07	452.14
Passenger Revenue	*	164.05	179.17	188.79
Freight Revenue	*	17.81	13.01	10.08
Unspecified Passenger & Freight Revenue	-	-	-	-
Track & Infrastructure Charges (Passenger)	-	-	-	-
Track & Infrastructure Charges (Freight)	-	-	-	-
Track & Infrastructure Charges (Both)	-	-	-	-
Total subsidisation	182.00	193.33	202.38	203.49
Wages, Salaries, Social Security Payments	247.84	259.04	264.10	268.64
Operating costs	408.24	403.90	430.65	434.29
Operating profit	(10.78)	11.72	0.42	17.85
Financial expenses	6.10	4.30	5.10	5.03
P&L on ordinary activities before tax	(16.75)	7.53	(4.10)	13.41
Total fixed assets	917.30	1,032.97	1,142.74	1,308.24
Long Term receivables	-	-	-	-
Total current assets	210.55	217.34	204.96	222.29
Trade debtors	9.25	17.58	15.51	14.70
Other debtors	9.33	7.14	3.24	3.16
Current asset investments	-	-	-	-
Cash at bank and in hand	0.15	0.22	0.26	0.27
Creditors: <1yr (Current Liabilities)	438.64	354.35	358.97	386.68
Creditors: >1yr	601.12	798.27	893.49	1,044.62
Provisions for liabilities and charges	60.81	62.85	64.51	55.10
Equity	27.31	34.83	30.73	44.14
	No. / Million km			
Average no. employees	5,590	5,463	5,317	4,985
Track kilometres managed	**	**	**	**

Source: Iarnród Éireann's financial statements

* Data unavailable

** According to Iarnród Éireann's website, the company currently (as of March 2009) maintains 2,288km of track. However, data on track km between 2004 and 2007 was unavailable.

Notes:

(vi) The revenue figures reported here include income from government grants, parent company contributions and the release of provisions for liabilities and charges. The revenue figures reported in Iarnród Éireann's financial statements exclude these three income sources. For the same reason, the operating profit figures reported here differ from those reported in Iarnród Éireann's financial statements.

(vii) Revenue figures include revenue from road haulage and harbour services. These services account for approximately 10% of the 'total revenue' figures reported in the table.

(viii) The figures for Creditors >1yr reported here include deferred income (in contrast with Iarnród Éireann's financial statements, which report deferred income separately).

Table 179 Financial Ratios for Iarnród Éireann

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	397.46	415.61	431.07	452.14
Net profit (€m)	(16.75)	7.53	(4.10)	13.41
Operating profit (€m)	(10.78)	11.72	0.42	17.85
Total assets (€m)	1,127.86	1,250.31	1,347.70	1,530.53
Profitability				
Operating profit margin (%)	-2.7%	2.8%	0.1%	3.9%
Net margin (%)	-4.2%	1.8%	-1.0%	3.0%
Return on assets (%)	-1.5%	0.6%	-0.3%	0.9%
Return on equity (%)	-61.3%	21.6%	-13.3%	30.4%
Viability ratio	0.97	1.03	1.00	1.04
Efficiency				
Liabilities / operating costs	2.70	3.01	3.06	3.42
Cost per staff member (€'m)	0.07	0.07	0.08	0.09
Staff costs as proportion of operating costs (%)	60.7%	64.1%	61.3%	61.9%
Total Revenue per Passenger Km (€)	*	0.09	0.10	0.09
Total Revenue per Freight Km (€)	*	0.06	0.06	0.08
Indebtedness				
Total debt of the company (€m)	1,039.76	1,152.63	1,252.45	1,431.30
Debt: Equity ratio	38.08	33.09	40.75	32.43
Quick ratio	0.04	0.07	0.05	0.05
Current ratio	0.48	0.61	0.57	0.57
Debt service coverage ratio	(1.77)	2.73	0.08	3.55
Public funding				
Total public income (€m)	182.00	193.33	202.38	203.49
Public funding / costs (%)	44.6%	47.9%	47.0%	46.9%
Public funding / revenue (%)	45.8%	46.5%	46.9%	45.0%

Source: Iarnród Éireann's financial statements / Frontier analysis

* Insufficient information to calculate ratio

13.7.9 Iarnród Éireann's total turnover and public funding grew steadily between 2004 and 2007, with annual growth rates in the region of 4%. Public funding represented almost half of total revenues. Iarnród Éireann's staff costs accounted for a particularly high proportion of its operating costs, remaining in the 60-65% range throughout the period. Operating profit margins were less stable, ranging from -2.7% in 2004 to 3.9% in 2007. The company's return on equity fluctuated accordingly, ranging from -61.3% in 2004 to 30.4% in 2007.

13.7.10 Iarnród Éireann's sizeable asset base reflects its ownership of the country's railway network infrastructure and rolling stock. The company is very highly leveraged, with a debt:equity ratio above 30 throughout the period. Total debts increased from €1.0bn in 2004 to €1.4bn in 2007. The persistently low current ratio and quick ratio indicates that Iarnród Éireann may be exposed to short term liabilities.

17.2 Conclusion

17.7.12 Based on the information available, we can conclude the following.

- The incumbent operator Iarnród Éireann (IE) is still an integrated company and provides all rail infrastructure management, passenger operations, and freight operations services. It’s parent company is Córas Iompair Éireann (CIÉ) and it is ultimately owned by the Irish government.

- An independent regulator has not yet been established in Ireland so the Irish Department of Transport currently provides regulatory oversight.
- The amount and sources of public funding was obtained from the group accounts. It was difficult to determine exactly how much public funding was allocated to rail activities and no indication was given about exacty how it was used.
- Articles 6.1 and 6.2 of the Directive have not been fully transposed into national legislation.
- It is not clear why Iarnród Éireann’s balance sheet has not been vertically separated (i.e. between infrastructure and operations) even though the relevant parts of article 6.1 are included in the Irish legislation, nor why its accounts have not been fully horizontally separated (i.e. between rail passenger and rail freight operations) even though article 9.4 is included in the Irish legislation.
- The accounts produced are compliant with Irish GAAP, however the level of disclosure is insufficient to be able to determine whether public funds have been transferred between the infrastructure management and rail operational parts of the business or whether PSO related funds have been transferred to other parts of the business.
- Due to the integrated nature of the incumbent, no track and infrastructure access charges are made.
- IE has made very small profits and losses during the period and has been heavily reliant on debt and had very low liquidity. It’s parent company displayed similar financial trends and also had negative equity during 2004 and 2005.

14 ITALY

14.1 Industry overview

14.1.1 Italy's state owned incumbent company, Ferrovie dello Stato (FS), is the largest provider of infrastructure, passenger and freight services in Italy. Since 2000, FS has acted as a holding company with several subsidiaries. This structure separates transport and infrastructure services into legally separate subsidiaries; Trenitalia and Rete Ferroviaria Italiana (RFI), respectively. Within Trenitalia, distinct divisions provide passenger and freight services.

14.1.2 The Italian rail industry is regulated by the Ufficio Regolamentazione del Servizio Ferroviario (URSF). It was founded in 2005 and its responsibilities are:

- Monitoring of competition
- Monitoring and supervision of the activities of the national infrastructure manager (RFI)
- Decisions relating to discriminatory acts by RFI
- Support of the Ministry of Transport in defining principles for the regulation of the rail transport market
- Preparation of general behavioural directives for market participants
- Excersize of powers relating to rail network access conditions
- Participating in the internation exchange of information and cooperation with other bodies

14.1.3 The URSF reports to and is financed by the Ministry of Transport. All decisions by the URSF are immediately legally binding but the body has no power to enforce coercive measures or fines for non compliance.[259]

[259] IBM Business Consulting Services, Rail Liberalisation Index 2006, p 42

14.2 List of Railway Undertakings[260]

Passenger	Freight	Infrastructure Manager
Trenitalia* Ferrovie Nord Milano Transporti* Trasporto Ferroviario Toscano Ferrovia Adriatico Sangritana Gruppo Torinese Trasporti Ferrovie Emilia Romagna Sistemi Territoriali Metrocampania Nord-Est	Trenitalia* Del Fungo Giera Servizi Ferroviari Rail Traction Company Metronapoli HUPAC Ferrovia Adriatico Sangritana Ferrovie Emilia Romagna Sistemi Territoriali Railion Italia* SERFER – Servizi Ferroviari SBB Cargo Italy Ferrovie NordCargo	RFI* Ferrovienord Milano*

*Companies with Italian revenues greater than €50m which will be studied in depth.

14.3 Industry Regulator & Government Departments

- Regulatory Authorities
  - Ufficio Regolamentazione del Servizio Ferroviario (URSF)
- Ministry of Finance
  - Ministero dell'Economia e delle Finanze[261]
  - Comitato Interministeriale per la Programmazione Economica (CIPE)[262]
- Ministry of Transport
  - Ministero delle Trasporti[263]
- Ministry of Infrastructure
  - Ministero delle Infrastrutture[264]

14.4 Legal Framework

14.4.1 Decree no. 188 of the 8th July 2003, Article 2, paragraph 1 and Article 5, paragraphs 2 – 4.

Article 2.1
Activities governed by this decree shall be aligned to the following principles:
c) separation or forming separate companies for the management of railway infrastructure and for rail transport operation businesses.

260 www.era.europe.eu, Only companies with both safety certificates and licenses are included.
261 www.mef.gov.it
262 www.cipecomitato.it
263 www.trasporti.gov.it
264 www.infrastrutture.gov.it

Article 5.2
The annual accounts shall be kept separate for activities associated with the provision of freight services.
Article 5.3
If funds are granted for activities relating to the provision of transport services for public service, they should be shown separately in the relevant accounts and can not be transferred to activities relating to the provision of other transport services or other activities.
Article 5.4
If the railway undertaking involves activities connected to the management of railway infrastructure, the activities connected to the performance of transport services must be held separate from those connected to the management of the railway infrastructure. The public financing granted to one of these sectors of activity can not be transferred to the other. The accounts relative to the two sectors of activity must be separate in such a way as to reflect such a prohibition.

Table 180 EC Directive 2001/EC/12 compliance

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Partial (i)	'If the railway undertaking involves activities connected to the management of railway infrastructure, the activities connected to the performance of transport services must be held separate from those connected to the management of the railway infrastructure.'
6.1(a)	Requirement to publish separated accounts	No	We were unable to identify legislation referring to this point of the directives.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	'The public financing granted to one of these sectors of activity can not be transferred to the other…'
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	'The accounts relative to the two sectors of activity must be separate in such a way as to reflect such a prohibition.'
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	'Activities governed by this decree shall be aligned to the following principles: c) separation or forming separate companies for the management of railway infrastructure and for rail transport operation businesses.'
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Partial (ii)	'The annual accounts shall be kept separate for activities associated with the provision of freight services.'
9.4(a)	Requirement to publish separated	No	We were unable to identify

	accounts		legislation referring to this point of the directives.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	'If funds are granted for activities relating to the provision of transport services for public service, they should be shown separately in the relevant accounts…'
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	'…and can not be transferred to activities relating to the provision of other transport services or other activities.'

14.4.2 Notes

(i) There is no specific reference to separate balance sheets and profit and loss accounts. However, the legislation refers to forming separate companies for infrastructure management and transport operations, so the requirement is implemented in this way.

(ii) There is no specific reference to separate balance sheets and profit and loss accounts, only to 'separate accounts'.

14.4.3 In our opinion, the directives have not been fully transposed into the national legislation. Specifically;

- Article 6.1 – We were unable to identify any legislation relating to the requirement to publish the separated infrastructure and transport accounts. Further the accounts do not specify that separate balance sheets and P&Ls are to be published.
- Article 9.4 – We were unable to identify any legislation relating to the requirement to publish the separated freight accounts. Further the accounts do not specify that separate balance sheets and P&Ls are to be published for freight.

14.5 Sources of Information

14.5.1 Italian laws and regulations:

- Legislative Decree of the 8th July 2003, no. 188 for the Implementation of Directives 2001/12/EC, 2001/13/EC and 2001/14/EC.[265]

14.5.2 Annual accounts:

- Ferrovie dello Stato Group Consolidated Annual Reports 2004 – 2007
- FdS Group Annual Management Accounts 2004 – 2007
- Trenitalia Annual Report 2004 – 2007
- RFI Annual Report 2004 – 2007
- FNM Group Consolidated Annual Report 2007
- Ferrovienord Annual Report 2007
- LeNord Annual Report 2007
- NordCargo Annual Report 2007

[265] http://www.camera.it/parlam/leggi/deleghe/testi/03188dl.htm

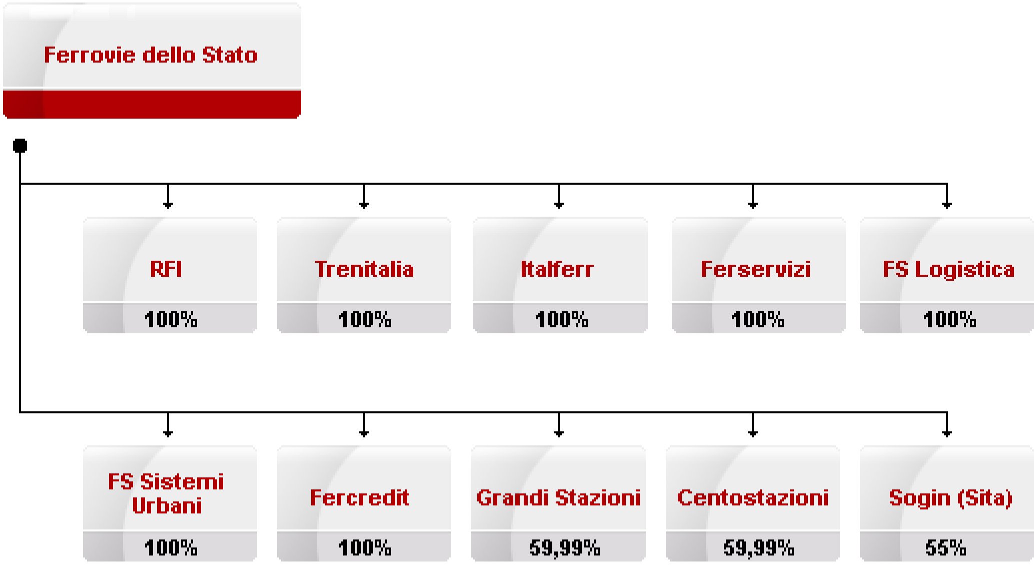
14.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- IBM Global Business Services, Rail Liberalisation Index 2006
- Ferrovie dello Stato website, www.ferroviedellostato.it (February 2009).
- FNM Group website, www.fnmgroup.it, (February 2009)
- Correspondence with Ferrovie dello Stato, February 2009
- Correspondence with FNM Group, February – March 2009
- Trenitalia reports on freight public service obligations 2006 – 2007
- Trenitalia reports on passenger public service obligations 2006 – 2007
- RFI Report on Public Service Contract 2007
- Trenitalia regulatory accounting guidelines
- RFI regulatory accounting guidelines

14.6 Ferrovie dello Stato (FS)

14.6.1 The state owned rail company, Ferrovie dello Stato is the largest rail group in Italy. It is an integrated company, providing multiple services under various subsidiaries (see Figure 3). It has existed as a holding company since 2001.

Figure 10: Ferrovie dello Stato Group Structure[266]



14.6.2 FS is active in several markets through its various subsidiaries. The principal subsidiaries are:

- Rete Ferroviaria Italiana SpA (RFI), the infrastructure manager.
- Trenitalia SpA, the passenger and freight operator.

[266] Ferrovie dello Stato website, www.ferroviedellostato.it, February 2009

- Centostazioni SpA, responsible for the management development of stations in Italy
- Grandi Stazioni, responsible for renovating and developing FS's properties surrounding Italy's 13 largest stations.
- Ferservizi SpA, providing management, telecoms and IT services to the group.
- Italferr SpA, providing engineering consultancy to FS Group.
- Ferrovie Real Estate, managing the group property assets.
- SITA, operator of local and regional public transport bus services, tours and travel agencies.

14.6.3 The below table shows the holding companies compliance with the requirements of the European directives on accounting separation.

Table 181 EC Directive 2001/12/EC compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	Trenitalia and RFI are separate subsidiaries of FS and publish separate accounts.
6.1(a)	Requirement to publish separated accounts	Yes	The accounts are available to download on the company website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We have not encountered any evidence suggesting the transfer of public funds between Trenitalia and the infrastructure manager or the holding company.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not published by FS. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	Trenitalia has been set up as a separate subsidiary to RFI, the infrastructure manager.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for	Yes	The transport subsidiary, Trenitalia, publishes a separate P&L and balance sheet for its freight activities.

	businesses relating to the provision of rail freight transport services.’		
9.4(a)	Requirement to publish separated accounts	Yes	The Trenitalia cargo P&L and balance sheet are published inside the Trenitalia accounts. These are available for download from the company’s website.
9.4	’Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	No	Details are given of PSO for transport activities within the company’s annual report, but this is not separated into the different PSO contracts.
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	We have not encountered any evidence suggesting that funds for transport PSO have been transferred to other activities or businesses.

14.6.4 The structure of FS is not wholly compliant with the requirements of the accounting separation directives but this extends only to a failure to breakdown PSO revenues into different PSO contracts.

14.6.5 There is not enough detail to determine quantities and uses of funds transferred to and from the holding company and the mechanisms by which this could happen. This is potentially non transparent.

14.6.6 As a consequence of the company structure, the individual rail operating subsidiaries shall be studied separately. However, Table 182 shows the total aggregated public funding which FS Group received between 2004 and 2007. This includes PSO funding (for Trenitalia), equity, grants and other contributions.

Table 182 Public funding from other sources

Year	Amount (€m)	Type	Source
2004	3,025	PSO (Rail only)	FS
	73	Funding for road transport	FS
	2,665	Infrastructure equity	FS
	298	Infrastructure grant	FS
	26	Grant for rolling stock	FS
	18	Contributions for personel contract renewal	FS
	1	Other	FS
2005	3,028	PSO (Rail only)	FS
	73	Funding for road transport	FS
	3,006	Infrastructure equity	FS
	423	Infrastructure grant	FS
	53	Grant for rolling stock	FS
	18	Other contributions for Intermodal freight	FS
	20	Contributions for personel contract renewal	FS
	19	Other	FS
2006	2,545	PSO (Rail only)	FS
	75	Funding for road transport	FS
	4.699	Infrastructure grant	FS
	123	Grant for rolling stock	FS
	42	Other contributions	FS

		for Intermodal freight	
	26	Contributions for personel contract renewal	FS
	1	Other	FS
2007	3,282	PSO (Rail only)	FS
	76	Funding for road transport	FS
	4,184	Infrastructure grant	FS
	49	Grant for rolling stock	FS
	16	Other contributions for Intermodal freight	FS
	28	Contributions for personel contract renewal	FS

Table 183 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	10,468	10,080	8,637	9,619
Revenue from Passenger transport	3,597	3,656	3,771	4,248
Revenues from Freight transport	835	863	1,025	1,079
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	3,025	3,028	2,545	3,282
Wages, Salaries, Social Security Payments	4,470	4,593	4,708	4,717
Operating costs	9,927	9,760	9,875	10,034
Operating profit	542	320	-1,239	-415
Financial expenses	630	793	336	498
P&L on ordinary activities before tax	-1	-343	-1,439	-797
Total fixed assets	78,842	84,958	73,666	76,502
Long term receivables	0	0	0	0
Total current assets	12,976	12,737	13,926	12,528
Trade debtors	1,933	1,758	2,392	1,958
Other debtors	8,083	8,515	7,777	5,996
Current asset investments	1,238	405	282	2,404
Cash at bank and in hand	712	1,089	2,580	1,291
Creditors: <1yr (Current Liabilities)	9,928	10,668	11,140	12,260
Creditors: >1yr	15,365	19,722	11,097	12,589
Provisions for liabilities and charges	30,526	28,765	28,912	28,165
Equity	35,999	38,539	36,443	36,016
	No. / Km			
Average no. employees	0	0	93,573	98,002
Passenger-kilometres (m)	45,577	46,144	47,000	45,881
Tonne-kilometres (m)	23,271	22,328	22,895	23,253
Managed kilometres	15,915	16,225	16,297	16,336

Table 184 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	10,468	10,080	8,637	9,619
Net profit (€m)	-1	-343	-1,439	-797
Operating profit (€m)	542	320	-1,239	-415
Total assets (€m)	91,818	97,695	87,592	89,030
Profitability				
Operating profit margin	5%	3%	-14%	-4%
Net margin	0%	-3%	-17%	-8%
Return on assets	0%	0%	-2%	-1%
Return on equity	0%	-1%	-4%	-2%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	5.6	6.1	5.2	5.3
Cost per staff member (€ '000)	-	-	106	102
Staff costs as a proportion of operating costs	45%	47%	48%	47%
Unit operating costs (€ '000)	218	212	210	219
Total Revenue per Passenger Km (€)	0.23	0.22	0.18	0.21
Total Revenue per Freight Km (€)	0.45	0.45	0.38	0.41
Total revenue per managed km (€m)	0.66	0.62	0.53	0.59
Indebtedness				
Total debt of the company (€m)	16,229	20,948	13,191	15,928
Debt / Total liabilities	29%	35%	26%	30%
Debt: Equity ratio	0.5	0.5	0.4	0.4
Quick ratio	1.2	1.1	1.2	1.0
Current ratio	1.3	1.2	1.3	1.0
Debt service coverage ratio	0.9	0.4	-3.7	-0.8
Public funding				
Total public income (€m)	3,025	3,028	2,545	3,282
Public funding / costs	30%	31%	26%	33%
Public funding / revenue	29%	30%	29%	34%

14.6.7 Table 183 and Table 184 show the financial data for FS Group. As can be seen, they receive a large amount of PSO funding, which represents between 29% and 34% of their revenues (investment funding is not included in these figures.) Over the four year period, revenues have fallen from €10.5bn to €9.6bn and the profit margin has fallen to -8%. There is a large decrease in total debt between 2005 and 2006. The reasons for this are unclear but it may be, at least in part, as a consequence of a change in ‘Other loans’ (Debiti verso altri finanziatori) of €12.2bn. This is as a consequence, largely, of assets (and the associated debt) being transferred from TAV SpA (a subsidiary responsible for construction of high speed lines) to RFI. These assets include the Roma-Gricignano, Torino-Novara and Modena-Bologna routes.[267]

14.6.8 Our total debt is not calculated in the same way, so this change may not be reflected in its totality, however, it explains the significant change (€7.8bn) shown in that year.

14.7 Trenitalia

14.7.1 Trenitalia, the transport subsidiary of Ferrovie dello Stato, is the largest train operator in Italy. It was created in 2001 when FS became a holding company.

14.7.2 Trenitalia offers both freight and national and international passenger services, provided by separate subsidiaries.

[267] FS Accounts, 2006, pp 182 – 183

14.7.3 Within the passenger division, there are three distinct services;

- Passeggeri Alta Velocita (high speed services)
- Passeggeri a Lunga Percorrenza (long distance services)
- Passegeri Regionale (regional, local and suburban services)

14.7.4 Trenitalia's freight operations are provided by a separate division within the company.

14.7.5 The company is given PSO compensation from the state for both freight and passenger services. It is unusual that a freight division is given PSO compensation, however, FS have informed us that they received quantities of PSO public funding in each year between 2004 and 2007.

Table 185 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements of Trenitalia SpA on 31 December 2007 and complies with the rules governing the criteria for drafting it. It is written with clarity and represents a true and fair view of the financial position and results of the company.' PriceWaterhouseCoopers, March 2008
Transparency	Good	There is a high level of detail in the annual report including investments and transfers to the various group companies and the amounts of public funds for PSO.
Visibility of transfers from/to other rail businesses	Good	The accounts provide a list of debts/loans and costs/revenues from other rail businesses.[268]
Visibility of intra-group transfers	Good	Debts, loans, investments and transfers from subsidiaries, as well as the costs of track access charges, are all detailed in the 2007 annual report.[269] The accounts also provide a list of debts/loans and costs/revenues from other FS group rail businesses.[270]

14.7.6 The Trenitalia accounts contain a high level of detail with the only criticism relating to the visibility of transfers from/to other rail businesses, where details of third party transactions are not given.

Table 186 EC Directive 2001/12/EC compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of	Yes	Trenitalia and RFI are separate subsidiaries of FS and publish separate accounts.

[268] Ibid, p 42
[269] Ibid, p 87 – 98
[270] Ibid, p 42

	transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'		
6.1(a)	Requirement to publish separated accounts	Yes	The accounts are available to download on the company website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We have not encountered any evidence suggesting the transfer of public funds between Trenitalia and the infrastructure manager.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by Trenitalia. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	Trenitalia has been set up as a separate subsidiary to RFI, the infrastructure manager.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	Trenitalia publishes a separate P&L and balance sheet for its freight activities.
9.4(a)	Requirement to publish separated accounts	Yes	The Trenitalia cargo P&L and balance sheet are published inside the Trenitalia accounts. These are available for download from the company's website.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	Details are given of PSO for transport activities within the annual report, but this is not separated into the different PSO contracts.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	We have not encountered any evidence suggesting that funds for transport PSO have been transferred to other activities or businesses.

14.7.7 In our opinion, Trenitalia is not in full compliance with the EC directives on accounting separation. However, this only extends to a failure to disaggregate PSO compensation by contract and a failure to present the accounts in a sufficiently transparent way.

Table 187 Public funding from accounts

Year	2004		2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
PSO	362	Passenger PSO	362	Passenger PSO	269	Passenger PSO	429	Passenger PSO
PSO	119	Freight PSO	119	Freight PSO	98	Freight PSO	139	Freight PSO
PSO	1,209	Regional PSO	1,205	Regional PSO	1,215	Regional PSO	1,501	Regional PSO
Additional services	29	Additional services for local govt.	53	Additional services for local govt.	58	Additional services for local govt.	60	Additional services for local govt.
Total	1,690		1,686		1,582		2,069	

Table 188 Public funding evidence from other sources

Year	Amount (€m)	Type	Source
2004	26	Grant for rolling stock	FS
	144	PSO (Long distance contract)	FS
	1,209	PSO (Regional service – 'Ordinary' regions)	FS
	218	PSO (Regional service – 'Special' regions)	FS
	29	Additional PSO services	FS
	119	PSO (Freight service)	FS
2005	53	Grant for rolling stock	FS
	144	PSO (Long distance contract)	FS
	1,205	PSO (Regional service – 'Ordinary' regions)	FS
	218	PSO (Regional service – 'Special' regions)	FS
	53	Additional PSO services	FS
	119	PSO (Freight service)	FS
2006	123	Grant for rolling stock	FS
	110	PSO (Long distance contract)	FS
	1,215	PSO (Regional service – 'Ordinary' regions)	FS
	159	PSO (Regional service – 'Special' regions)	FS
	58	Additional PSO services	FS
	98	PSO (Freight service)	FS
2007	49	Grant for rolling stock	FS
	189	PSO (Long distance contract)	FS
	1,501	PSO (Regional service – 'Ordinary' regions)	FS
	240	PSO (Regional service – 'Special' regions)	FS
	60	Additional PSO services	FS
	139	PSO (Freight service)	FS

14.7.8 In the accounts, the PSO compensation seems only to include PSO for long distance, 'special' regions and freight services. These are separated into those relating to passengers and those relating to freight. The PSO figures are not shown for 'Ordinary' regions, but these are shown elsewhere in accounts.

14.7.9 As 'Additional services for local govt.' has been accounted for twice – once in Passenger PSO and once individually – this has been removed from the total.

14.7.10 We were not able to locate the grants for rolling stock in the accounts.

Table 189: Summary of Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	5,296	5,254	5,041	5,642
Revenue from Passenger transport	3,430	3,489	3,565	3,959
Revenues from Freight transport	743	724	762	761
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	1,690	1,686	1,682	2,069
Wages, Salaries, Social Security Payments	2,064	2,112	2,186	2,190
Operating costs	5,443	5,733	6,250	6,031
Operating profit	-147	-479	-1,209	-389
Financial expenses	92	103	186	270
P&L on ordinary activities before tax	-223	-565	-1,364	-633
Total fixed assets	7,404	7,578	7,925	8,524
Long term receivables	0	0	0	1
Total current assets	3,523	3,790	3,712	2,929
Trade debtors	868	875	1,573	1,122
Other debtors	1,848	2,135	1,408	931
Current asset investments	40	55	3	196
Cash at bank and in hand	10	1	49	5
Creditors: <1yr (Current Liabilities)	2,566	3,228	3,626	3,065
Creditors: >1yr	6,030	6,135	7,087	7,355
Provisions for liabilities and charges	0	0	0	0
Equity	2,332	2,004	925	1,033
	No. / Km			
Average no. employees	0	0	0	0
Passenger-kilometres (m)	45,577	46,144	47,000	45,881
Tonne-kilometres (m)	23,271	22,328	22,895	23,253
Managed kilometres	0	0	0	0

Table 190: Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	5,296	5,254	5,041	5,642
Net profit (€m)	-223	-565	-1,364	-633
Operating profit (€m)	-147	-479	-1,209	-389
Total assets (€m)	10,927	11,368	11,638	11,454
Profitability				
Operating profit margin	-3%	-9%	-24%	-7%
Net margin	-4%	-11%	-27%	-11%
Return on assets	-2%	-5%	-12%	-6%
Return on equity	-10%	-28%	-147%	-61%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	1.6	1.6	1.7	1.7
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	38%	37%	35%	36%
Unit operating costs (€ '000)	119	124	133	131
Total Revenue per Passenger Km (€)	0.12	0.11	0.11	0.12
Total Revenue per Freight Km (€)	0.23	0.24	0.22	0.24
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	2,706	2,711	3,646	3,035
Debt / Total liabilities	31%	29%	34%	29%
Debt: Equity ratio	1.2	1.4	3.9	2.9
Quick ratio	1.1	0.9	0.8	0.7
Current ratio	1.4	1.2	1.0	1.0
Debt service coverage ratio	-1.6	-4.6	-6.5	-1.4
Public funding				
Total public income (€m)	1,690	1,686	1,682	2,069
Public funding / costs	31%	29%	27%	34%
Public funding / revenue	32%	32%	33%	37%

Table 191 Financial Ratios – Freight only

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	0	0	953	1,009
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	0	770	769
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	119	119	98	139
Wages, Salaries, Social Security Payments	0	0	589	606
Operating costs	0	0	1,401	1,329
Operating profit	0	0	-448	-319
Financial expenses	0	0	0	0
P&L on ordinary activities before tax	0	0	-448	-319
Total fixed assets	652	1,304	1,193	963
Long term receivables	0	0	0	0
Total current assets	652	926	939	1,235
Trade debtors	213	328	528	219
Other debtors	295	330	169	185
Current asset investments	119	238	238	783
Cash at bank and in hand	5	0	0	0
Creditors: <1yr (Current Liabilities)	1,178	1,739	2,061	2,774
Creditors: >1yr	768	508	867	543
Provisions for liabilities and charges	0	0	0	0
Equity	140	-17	-839	-1,119
	No. / Km			
Average no. employees	-	-	-	-
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	23,271	22,328	22,895	23,253
Managed kilometres	0	0	0	0

Table 192: Financial Ratios – Freight only

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	0	0	953	1,009
Net profit (€m)	0	0	-448	-319
Operating profit (€m)	0	0	-448	-319
Total assets (€m)	1,303	2,230	2,132	2,198
Profitability				
Operating profit margin	-	-	-47%	-32%
Net margin	-	-	-47%	-32%
Return on assets	0%	0%	-21%	-15%
Return on equity	0%	0%	53%	29%
Viability ratio	-	-	1	1
Efficiency				
Liabilities / operating costs	-	-	2.1	2.5
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	-	-	0%	0%
Unit operating costs (€ '000)	0	0	61	57
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	0.00	0.00	0.04	0.04
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	316	64	467	160
Debt / Total liabilities	16%	3%	16%	5%
Debt: Equity ratio	2.3	-3.7	-0.6	-0.1
Quick ratio	0.5	0.5	0.5	0.4
Current ratio	0.6	0.5	0.5	0.4
Debt service coverage ratio	-	-	-	-
Public funding				
Total public income (€m)	119	119	98	139
Public funding / costs	-	-	7%	10%
Public funding / revenue	-	-	10%	14%

14.7.11 Trenitalia made losses in each year between 2004 and 2007. The greatest loss was in 2006, when the profit margin dropped to -27%. During this period, there was also a steady fall in both quick and current ratios and 2007 current ratio of 0.7 indicates potential liquidity issues.

14.7.12 Due to the way in which the total debt of the company is calculated, in the latter table there is a significant fall in the total debt of the company in 2007, however, the table of financial data shows that, in fact total liabilities increased between 2006 and 2007. The reason why the classification of the liabilities may have changed is unclear.

14.7.13 Separate balance sheets are provided for all years between 2004 and 2007. We were unable to locate a separate balance sheet for 2004 and 2005. We note that the freight division of Trenitalia receives PSO funding, which is unusual amongst Europe's rail companies.

14.8 RFI

14.8.1 RFI is the infrastructure management subsidiary of Ferrovie dello Stato. It manages around 28,000 km of tracks, including networks in Sardinia and Sicily. It was formed in July 2001.

14.8.2 Its principal responsibilities include;

- To ensure the safety of the railway network
- Develop the rail system
- Ensure full accessibility, maintenance and efficiency of the rail infrastructure
- Manage investment in the infrastructure

14.8.3 FS have provided us with significant amounts of information relating to the public budget contributions to RFI. This data requires further analysis and further enquiries are to be conducted in this area.

14.8.4 Accounting Issues

Table 193 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the accounts of Rete Ferroviaria Italiana SpA on 31st December 2007 complies with the rules governing the criteria for drafting it and it is, therefore, written with clarity and represents a true and fair view of the financial position and results of the company.'[271] PriceWaterhouseCoopers, March 2008
Transparency	Good	There is a high level of detail in the accounts. This includes information relating to intragroup transfers, transfers to third parties and public funding.
Visibility of transfers from/to other rail businesses	Partial	The notes to the accounts fully disclose the aggregate transactions with 'terzi' or third parties, but there is no explanation of who these third parties may be or a breakdown of the transactions.
Visibility of	Good	There is clear detail of transactions with the various

[271] RFI Annual Reports, Auditor's report

intra-group transfers		other subsidiaries of Ferrovie dello Stato, including the revenue generated[272], payments received and payments made. There are details given of the activities the operational relationship which RFI has with each of the subsidiaries.[273]

Table 194 EC Directive 2001/12/EC compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	RFI is a separate subsidiary to the transport operatore, Trenitalia and produces and publishes separate accounts.
6.1(a)	Requirement to publish separated accounts	Yes	The accounts are available for download on the company's website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We have not encountered any evidence suggesting the transfer of public funds between Trenitalia and RFI.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by RFI. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	Separate subsidiaries have been established for infrastructure management and transport operations.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	RFI does not provide freight operations.
9.4(a)	Requirement to publish separated accounts	Yes	RFI does not provide freight operations.
9.4	'Funds paid for activities relating to	Yes	RFI does not receive funding for PSO

[272] Ibid, p 55
[273] Ibid, pp 82 – 83

	the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’		transport.
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	RFI does not receive funding for PSO transport.

14.8.5 In our opinion, RFI is in compliance with the EC directives on accounting separation. However, its accounts do not give enough detail to detect illegal cross subsidies.

14.8.6 The table below shows the public funding received by RFI, according to the accounts.

Table 195 Public funding from accounts

Year	2004		2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
PSO	1,305	PSO	1,289	PSO	902	PSO	1,154	PSO
Additional services	1.5	Other contributions for operation	0.4	Other contributions for operation	0.1	Other contributions for operation		
Capital increases	16	Cap increases from the State and EU for investment	19	Cap increases from the State and EU for investment	18	Cap increases from the State and EU for investment	28	Cap increases from the State and EU for investment
Total	1,323		1,308		920		1,182	

Table 196 Public funding from other sources

Year	Amount (€m)	Type	Source
2004	1,032	Infrastructure PSO – maintenance of historical network	FS
	273	Infrastructure PSO – Other contributions	FS
	2,665	Capital Increase for infrastructure investment	FS
	182	State Investment funding	FS
	42	Regional Investment funding	FS
	74	EU Investment funding	FS
2005	1,063	Infrastructure PSO – maintenance of historical network	FS
	226	Infrastructure PSO – Other contributions	FS
	3,006	Capital Increase for infrastructure investment	FS
	174	State Investment funding	FS
	79	Regional Investment funding	FS
	170	EU Investment funding	FS
2006	823	Infrastructure PSO – maintenance of historical network	FS
	13	Infrastructure PSO – maintenance of AV network	FS
	66	Infrastructure PSO – Other contributions	FS
	4,477	State Investment funding	FS
	65	Regional Investment funding	FS
	157	EU Investment funding	FS
2007	1,041	Infrastructure PSO – maintenance of historical network	FS
	20	Infrastructure PSO – maintenance of AV network	FS
	93	Infrastructure PSO – Other contributions	FS
	3,896	State Investment funding	FS
	58	Regional Investment funding	FS
	231	EU Investment funding	FS

14.8.7 We were unable to find public funding information in the accounts relating to all of the infrastructure investments. The PSO figures are all included in the P&L of the accounts – albeit in aggregate.

Table 197 Summary Financial data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	4,634	4,115	3,629	3,838
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	740	813	1,055	1,050
Total subsidisation	1,305	1,289	902	1,154
Wages, Salaries, Social Security Payments	1,536	1,582	1,596	1,590
Operating costs	4,664	4,131	3,790	4,013
Operating profit	-30	-16	-161	-175
Financial expenses	16	16	12	26
P&L on ordinary activities before tax	-5	1	-140	-183
Total fixed assets	57,487	60,537	62,008	62,254
Long term receivables	616	552	551	3,150
Total current assets	5,136	4,793	4,965	6,241
Trade debtors	283	317	310	271
Other debtors	4,224	3,976	4,260	3,637
Current asset investments	0	0	0	0
Cash at bank and in hand	488	358	219	2,169
Creditors: <1yr (Current Liabilities)	2,300	2,792	4,000	5,982
Creditors: >1yr	231	356	1,233	3,751
Provisions for liabilities and charges	30,395	29,265	28,992	28,347
Equity	30,312	33,469	33,298	33,565
	No. / Km			
Average no. employees	36,044	35,642	34,908	33,654
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	15,915	16,225	16,297	16,336

Table 198 Financial Ratios

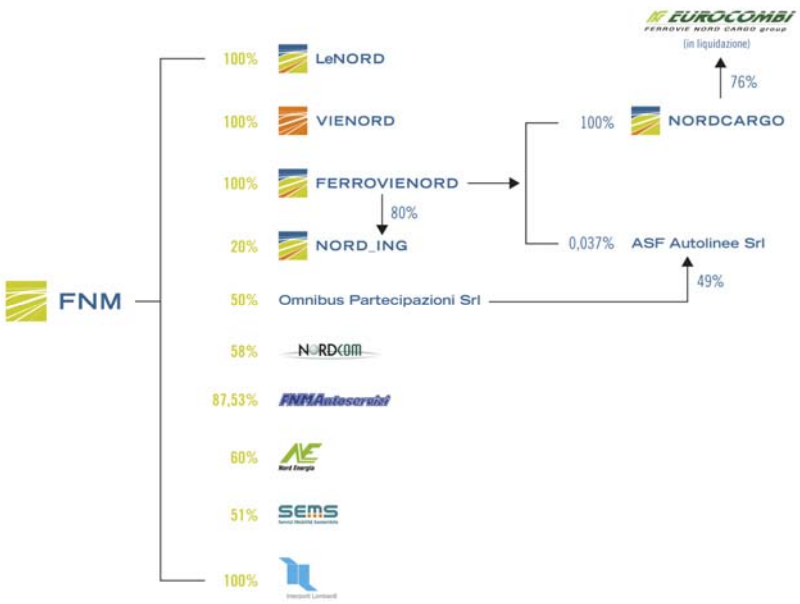
Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	4,634	4,115	3,629	3,838
Net profit (€m)	-5	1	-140	-183
Operating profit (€m)	-30	-16	-161	-175
Total assets (€m)	63,238	65,882	67,523	71,645
Profitability				
Operating profit margin	-1%	0%	-4%	-5%
Net margin	0%	0%	-4%	-5%
Return on assets	0%	0%	0%	0%
Return on equity	0%	0%	0%	-1%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	7.1	7.8	9.0	9.5
Cost per staff member (€ '000)	129	116	109	119
Staff costs as a proportion of operating costs	33%	38%	42%	40%
Unit operating costs (€ '000)	293	255	233	246
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	0.29	0.25	0.22	0.23
Indebtedness				
Total debt of the company (€m)	430	546	1,780	1,777
Debt / Total liabilities	1%	2%	5%	5%
Debt: Equity ratio	0.0	0.0	0.1	0.1
Quick ratio	2.2	1.7	1.2	1.0
Current ratio	2.2	1.7	1.2	1.0
Debt service coverage ratio	-1.8	-1.0	-12.9	-6.6
Public funding				
Total public income (€m)	1,305	1,289	902	1,154
Public funding / costs	28%	31%	24%	29%
Public funding / revenue	28%	31%	25%	30%

14.8.8 The financial data in Table 197 and Table 198 shows that RFI's revenues fell steadily between 2004 and 2006. Although 2007 saw year on year revenues increase, they still represent a 17% fall from the 2004 levels. This trend is concurrent with similar movements in the amounts of public income received by the company for the fulfilment of PSO.

14.9 FNM Group

14.9.1 Ferrovie Nord Milano is Italy's second largest rail company and is listed on the Italian stock exchange (Borsa Italiana). It was reorganised in 2006 into separate companies for each of its activities (see Figure 11).

Figure 11 FNM Group Structure[274]



14.9.2 These various subsidiaries perform the following functions:

Table 199 Subsidiary activities

Company	Activity
LeNord	LeNord provides regional passenger services in the Milan area on the RFI managed network.
Ferrovienord	Manages, maintains and upgrades a rail network of more than 300km.
FNM Autoservizi	Provides public transportation by bus
NordCargo	Provides freight transport services.
Nord_Ing	Engineering and design firm which focuses on upgrading and modernising the railway infrastructure.
NordCom	A joint venture between FNM Group and Telecom Italia

274 FNM Group Website, www.fnmgroup.it, February 2009

	providing telecommunications services.
Nord Energia	A joint venture with Azienda Elettrica Ticinese managing power plants and power lines in order to fulfil the energy requirements of FNM Group and sell the excess to the market.
SEMS	Provides electric or hybrid vehicles.
VieNord	Marketing and administration of FNM Group.

14.9.3 Accounting Issues

Table 200 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the consolidated financial statements of FNM SpA of 31st December 2007 comply with the international reporting standards adopted by the European Union as well as the measures taken in implementation of Article 9 of Legislative Decree no. 38/2005, and therefore, represent a true and fair view of the financial position and the results of the changes in equity and cash flows of the group FNM for the year ended on that date.' PriceWaterhouseCoopers, March 2008
Transparency	Good	There is a good level of detail in the group accounts, showing the allocation of costs and the sources of revenues.
Visibility of transfers from/to other rail businesses	Partial	Details of transfers with Ferrovie dello Stato are included in the notes of transactions with related parties as FS has a 14.74% stake in FNM. These transactions are not broken down and it is not possible to calculate exactly how much is transferred to (or from) FS.
Visibility of intra-group transfers	Partial	As the Lombardy region has a majority holding in the company, any transactions with the Lombardy region are given under the heading 'Transactions with Related Parties.'

Table 201 EC Directive 2001/12/EC compliance

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Separate summary balance sheets and P&L are published for the transport and infrastructure subsidiaries of FNM and are available for download from the FNM website. We were not able to obtain full accounts for each of the company's subsidiaries.
6.1(a)	Requirement to publish separated accounts	Yes	Only separated summary balance sheets and P&Ls are available to download from the company website. We were not able to obtain full accounts

			for each of the company's subsidiaries.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	We have been unable to identify any evidence suggesting the transfer of public funds between FNM's infrastructure and transport operations.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is nto provided. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	Separate subsidiaries are formed for the provision of rail transport and infrastructure management.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	Separate subsidiaries are formed for the provision of passenger and freight operations. They produce separate summary P&L and balance sheets.
9.4(a)	Requirement to publish separated accounts	Yes	Only separated summary balance sheets and P&Ls are available to download from the company website. We were not able to obtain full accounts for each of the company's subsidiaries.
9.4	Funds for PSO transport activities shown separately in accounts	No	The amounts of PSO funding for the group are shown in the P&L accounts under income. A breakdown of any separate PSO contracts is not given.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	We have not identified any evidence suggesting that transport PSO funds are transferred to other businesses.

14.9.4 In our opinion, FNM are not fully compliant with the EC directives on accounting separation. Specifically;

- Article 6.1 – The accounts are not detailed enough to confirm whether public funding is transferred between the FNM subsidiaries.
- Article 6.1 – We were not able to find the accounts for the company's subsidiaries in the public domain.
- Article 9.4 – We were unable to find a breakdown of any separate PSO contracts meaning either, FNM has only one PSO contract or they have not fully disclosed their various contracts.

14.9.5 Only accounts for 2007 were available for analysis as our attempts to obtain further information from FNM have been unsuccessful. The summary P&L and balance sheets for subsidiaries available for download on the FNM website were not detailed enough to conduct a full analysis.

14.10 Railion Italia/DB Schenker Rail Italia

14.10.1 Railion (now called DB Schenker) is a freight operating subsidiary of Deutsche Bahn (DB). Railion Italia (now DB Schenker Rail Italia) was formed in 2004 when DB acquired Strade Ferrate del Mediterraneo SFM.

14.10.2 We have been unable to obtain accounts for Railion Italia/DB Schenker Rail Italia as they do not appear to be published.

14.11 Conclusions

14.11.1 From the information available, we have concluded that:

- Most of the accounting separation directives have been transposed into the national legislation. However, there are no requirements for the publication of the accounts at a national level. Further, the legislation does not specify the requirement to publish separate P&L and balance sheets.
- Ferrovia dello Stato publishes separate balance sheets and profit and loss accounts for each of its passenger, freight and infrastructure activities. It has separate infrastructure and transport subsidiaries and a separate division for freight activities within the latter, Trenitalia.
- The subsidaries are largely compliant with the accounting separation requirements however, there is no breakdown of PSO compensation by contract for Trenitalia.
- We have been unable to conduct full analysis upon FNM as they do not publish the full accounts of their subsidiaries. Rather the information is limited to summary balance sheets and P&Ls.
- DB Schenker Rail Italia do not appear to publish their accounts.

15 LATVIA

15.1 Industry Overview

15.1.1 In 2007, Latvia's largest railway company, the state owned SJSC Latvijas Dzelzceļš (LDz), completed its plans to split its activities into a holding company structure with several separate subsidiaries.

15.1.2 The first of these subsidiaries, the passenger undertaking, was formed in 2001 through the merger of 3 major passenger companies. It is the only national passenger railway undertaking, though LLC Gulbenes – Aluksnes banitis provides a narrow gauge rail line between the towns of Bulbene and Aluksne.

15.1.3 There are ten companies with operating licenses in Latvia. 9 of these are freight operators, though, for several of them, railway operation is not their primary business.

15.1.4 In February 2009, LDz Cargo Ltd (a subsidiary of LDz) received authorisation to provide international passenger transportation (on top of its core business of rail freight transport). [275]

15.1.5 The State Railway Administration is responsible for granting rail freight licences and for investigating discrimination cases put forward by railway undertakings. The organisation is not entitled to impose coercive measures or fines.[276]

15.1.6 The fees for passenger transport are regulated by the Public Utilities Commission. As a result of the Public Transport Services Law, 2007, amendments were made to the Railway Law, meaning that the Public Utilities Commission is no longer required to determine a methodology for calculating a fee for rail passenger transport. This change only came into effect in 2008 and its effects are not visible in the most recent company accounts.[277]

15.2 List of Railway Undertakings[278]

Passenger	Freight	Infrastructure Manager
JSC Pasazieru Vilciens (PV)* (Subsidiary of LDz) SIA BO Gulbenes – Aluksnes banitis	LDz Cargo Ltd* (Subsidiary of LDz) SIA Baltijas Ekspresis Baltijas Ekspresis a.s. Liepajas Tranzita Ekspresis a.s. SIA BO Gulbenes – Aluksnes banitis Baltijas Tranzita Serviss a.s. Starptautiskie pasazieru parvadajumi SIA L-Ekspresis	Latvijas Dzelzceļš (LDz)*

*Companies with Latvian revenues greater than €50m which will be studied in depth.

15.3 Industry Regulator & Government Departments

[275] See "Latvia: LDz Cargo Ltd will provide also passenger transportation". Available from www.railwaymarket.eu

[276] IBM Global Business Services, Rail Liberalisation Index, 2007, p 162

[277] SPRK website, www.sprk.gov.lv

[278] Companies with railway operating licenses, European Rail Agency, www.era.europa.eu

- Ministry of Finance
    - Finansu Ministrija[279]
- Ministry of Transport
    - Latvijas Republikas Satiksmes Ministrija[280]
- Regulatory Authorities
    - State Railways Administration
    - Sabiedrisko Pakalpojumu regulesanas Komisija (SPRK)[281] – Public Utilities Commission

15.3.1 Section 12 (1) of the Latvian Railways Act states that:

Methods for calculation of the public-use railway infrastructure utilisation fees for carriage shall be determined by the Public Utilities Commission after consultation with the public-use railway infrastructure managers.

15.3.2 Section 12 (13) of the Latvian Railways Act states that:

Disputes between a public-use State railway infrastructure manager and a railway undertaking regarding the collection of the fees for the utilisation of the public-use railway infrastructure shall be examined and decisions binding to both parties shall be taken by the Public Utilities Commission, informing the State Railway Administration regarding such decisions.

15.4 Legal Framework

15.4.1 The Latvian railway industry is governed according to the country's Railway Act, which was last amended on 14 June 2007.[282] Relevant sections of the Act are identified as follows.

Section 13 – Separation of the functions of an infrastructure manager

1) If a public-use railway infrastructure manager is also a railway undertaking, then he or she shall ensure a separate accounting system (financial reports) and publication thereof, as well as the opening and management of a separate current account. Funds, which the State or local governments allocate to the relevant railway infrastructure manager may not be transferred to the railway undertaking and vice versa.

2) If a public-use railway infrastructure manager is also a railway undertaking, then he or she shall ensure that separate structural units perform such types of commercial activity.

Section 23 – Principles of operation for railway undertakings

1) A railway undertaking has a duty to organise separate passenger and freight carriage financial reports, as well as to ensure the public accessibility thereof in accordance wit the relevant regulatory enactments.

Section 24 – Procedures for entering into contracts for carriage by rail orders with the State of Local Governments

[279] http://fm.gov.lv
[280] http://www.sam.gov.lv
[281] www.sprk.gov.lv
[282] English translation acquired from the Director of the Railway Department in the Ministry of Transport. Translation provided by the Latvian Translation and Terminology Centre, 2008.

1) In the event a contract for carriage by rail orders is entered into, the railway undertaking shall open a separate current account for payments for the fulfillment of the carriage by rail orders and such funds shall be shown separately in accounting documents. The railway undertaking is not entitled to utilize funds, which have been paid for carriage by rail orders for other transport services, which he or she provides or other types of commercial activities, which he or she performs.

Table 202 EC Directive 2001/12/EC compliance

Article	Issue	Transposition	Latvian law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Partial (i)	'If a public-use railway infrastructure manager is also a railway undertaking, then he or she shall ensure a separate accounting system (financial reports) and publication thereof, as well as the opening and management of a separate current account.'
6.1(a)	Requirement to publish separated accounts	Yes	'If a public-use railway infrastructure manager is also a railway undertaking, then he or she shall ensure a separate accounting system (financial reports) and publication thereof, as well as the opening and management of a separate current account.'
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	'Funds, which the State or local governments allocate to the relevant railway infrastructure manager may not be transferred to the railway undertaking and vice versa.'
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	'If a public-use railway infrastructure manager is also a railway undertaking, then he or she shall ensure a separate accounting system (financial reports) and publication thereof, as well as the opening and management of a separate current account.'
6.2	'Member States may also provide that this separation shall require the □rganize□ion of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	'If a public-use railway infrastructure manager is also a railway undertaking, then he or she shall ensure that separate structural units perform such types of commercial activity.'
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of	Yes	'A railway undertaking has a duty to organise separate passenger and freight carriage financial reports, as well as to ensure the

Article	Issue	Transposition	Latvian law
	assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'		public accessibility thereof in accordance wit the relevant regulatory enactments.'
9.4(a)	Requirement to publish separated accounts	Yes	'A railway undertaking has a duty to organise separate passenger and freight carriage financial reports, as well as to ensure the public accessibility thereof in accordance wit the relevant regulatory enactments.'
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	'In the event a contract for carriage by rail orders is entered into, the railway undertaking shall open a separate current account for payments for the fulfillment of the carriage by rail orders and such funds shall be shown separately in accounting documents.'
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	'The railway undertaking is not entitled to utilize funds, which have been paid for carriage by rail orders for other transport services, which he or she provides or other types of commercial activities, which he or she performs.'

15.4.2 Notes

(i) The legislation does not specify the need for separate profit and loss and balance sheets, only a separate accounting system.

15.5 Sources of Information

15.5.1 Latvian laws and regulations:

- Latvian Railways Act, last amended 14 June 2007 (according to the English translation)

15.5.2 Annual accounts:

- LDz Group Annual Reports 2004 – 2007
- Online accounts from PV 2004 - 2006

15.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- SPRK website[283]
- European Rail Agency website[284]

[283] www.sprk.gov.lv
[284] www.era.europa.eu

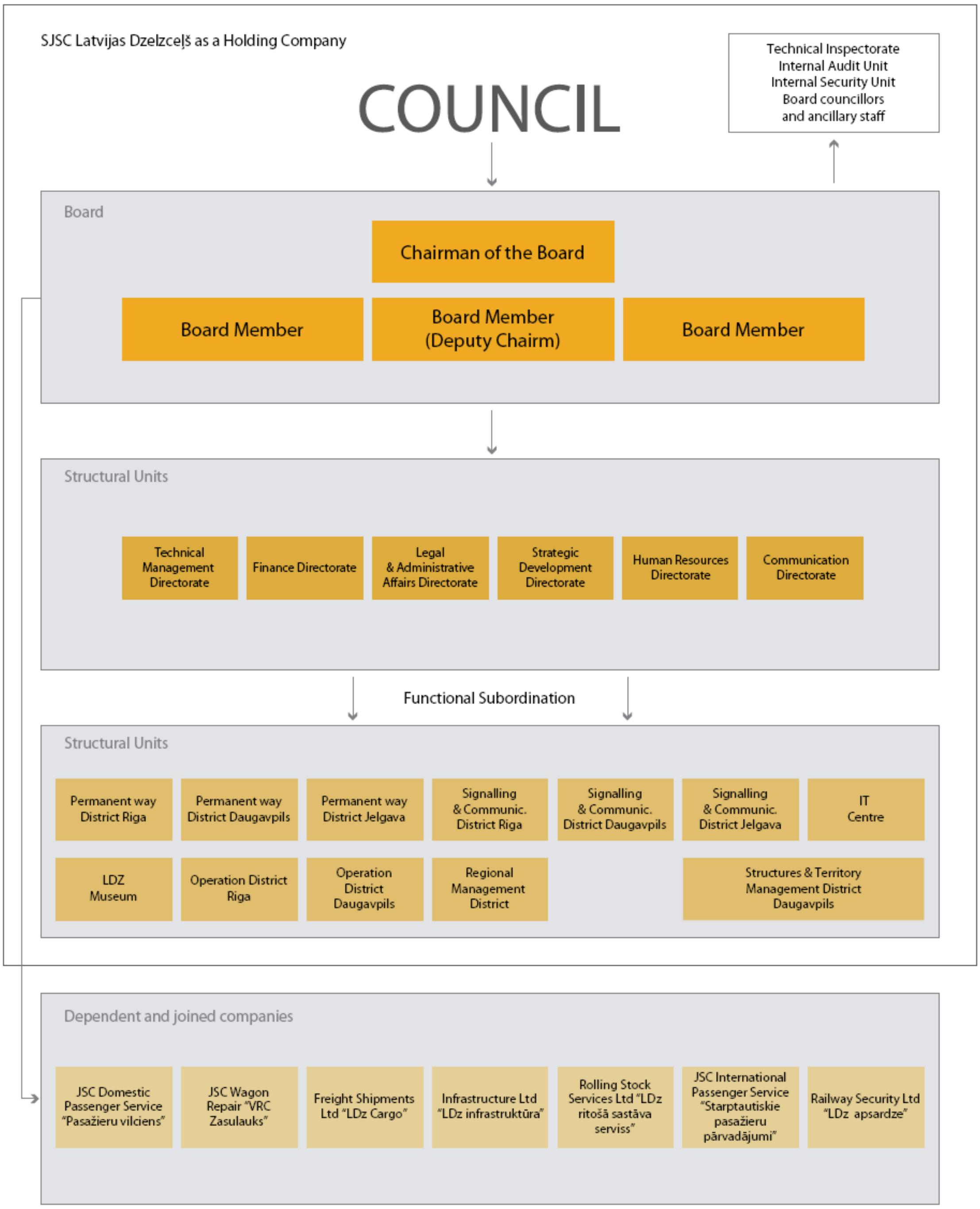
- Correspondence with the Latvian Ministry of Transport, Rail Department, March 2009
- Correspondence with LDz, March 2009

15.6 Latvijas Dzelzceļš (LDz)

15.6.1 Latvijas Dzelzceļš (LDz) is the state owned railway company in Latvia providing passenger, freight and infrastructure managing services under separate subsidiaries. In 2007, LDz was established as a holding company with several subsidiaries.[285] The holding structure is shown in Figure 12 below.[286]

[285] Correspondence with the Lavian Ministry of Transport, March 2009
[286] See LDz Annual Report 2007, page 6.

Figure 12 LDz Holding Structure



15.6.2 On 5 July 2007, *LDz infrastrūktura* (infrastructure maintenance), *LDz Cargo* (freight rail services) and *LDz ritošā sastāva serviss* (rolling stock services) started independent economic activity.[287] SJSC Latvijas Dzelzceļš continued its activities in the management of the national rail infrastructure and in the supervision of a total of 7 dependent subsidiaries, including the three mentioned in the previous sentence and:

- JSC Pasažieru vilciens – domestic passenger rail services
- JSC VRC Zasulauks – wagon repair

[287] LDz website, http://www.ldz.lv/?object_id=3081, accessed May 2009 & LDz Annual Report 2007, p 2

- Starptautiskie Pasažieru Pārvadājumi – international passenger rail services
- LDz apsardze – railway security.

15.6.3 LDz's passenger service, Pasažieru Vilciens (PV) was founded in 2001, when three separate passenger companies were merged, becoming the first subsidiary of LDz. The company provides the only domestic passenger rail service in Latvia.[288] Separate accounts exist for Pasažieru Vilciens (PV).[289]

15.6.4 LDz Cargo Ltd, LDz's freight service, was fully separated on the 5th July 2007.[290] LDz Cargo Ltd is, as reported in LDz's 2007 annual report, one of the largest railway freight carriers in the Baltic region. LDz Cargo Ltd only began independent operations in July 2007, so no separate accounts are available for this subsidiary. However, the Ministry of Transport, rail department indicated that LDz Cargo's 2008 annual report and accounts are under preparation but are not yet completed.

15.6.5 Our review of LDz's annual accounts is set out in Table 203 below.

Table 203: Accounting issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the information set forth in the accompanying condensed balance sheets is fairly state in all material respects in relation to the basic financial statements from which the condensed financial report has been derived.' S. V. Audits, 2008
Transparency	Poor	LDz's annual reports up to 2007 contain only P&L and Balance Sheets on a consolidated basis.
Visibility of transfers from/to other rail businesses	Poor	There is no disclosure of transfers from other rail businesses. Income from track access charges, for example, is not stated separately.
Visibility of intergroup transfers	Poor	There is no detail in the 2007 annual reports of any transactions within the group.

15.6.6 In Table 204, we assess LDz's compliance with the requirements of Directive 2001/12/EC.

[288] PV website, www.pv.lv
[289] Available from the Pasažieru Vilciens website. English translation available at http://translate.google.co.uk/translate?hl=en&sl=lv&u=http://www.ldz.lv/&ei=PRccSo71NKGrjAfgroXcDA&sa=X&oi=translate&resnum=1&ct=result&prev=/search%3Fq%3DLatvijas%2BDzelzce%25C4%25BC%25C5%25A1%2B(LDz)%26hl%3Den%26sa%3DG .
[290] '*Reorganisation of Latvian Railway came into effect in accordance with the decision of Register of Enterprises of the Republic of Latvia (dated July 4, 2007). On July 5, 2007, LDz Cargo Ltd, LDz infrastruktura Ltd and LDz ritosa sastava serviss Ltd started independent economic activity*.' LDz Annual Report, 2007, p 2. However, we also note the Commission's comment that LDz Cargo was established in 2005.

Table 204: LDz compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	No	In 2007, separate accounts were produced for PV (the passenger subsdiary of LDz) but only consolidated accounts were published for the company's other activities. The infrastructure subsidiary only began to trade independently in 2007, so one would expect separate accounts to be produced for 2008.
6.1(a)	Requirement to publish separated accounts	No	Separate accounts for infrastructure management activities are not published.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	No evidence of public funding being made available to LDz or its rail passenger operating subsidiary
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by LDz. Further detail of the information required is in chapter 29.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	Since 2001 in the case of LDz's rail passenger transport subsidiary. Only since July 2007 for freight activities.
9.4	Separate P&L and balance sheets kept and published for freight operations.	No	In 2007, separate accounts were not published for LDz Cargo.
9.4(a)	Requirement to publish separated accounts	No	In 2007, separate accounts were not published for LDz Cargo. We understand that it began independent activities in 2007 so one would expect separate accounts to be published from 2008.
9.4	Funds for PSO transport activities shown separately in accounts	No	No separate entries in accounts of LDz's rail passenger operating subsidiary for PSO funds received.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	We have not encountered any evidence suggesting the transfer of PSO funds for public transport.

15.6.7 In our opinion, in 2007 LDz was not compliant with the requirements of the directives on accounting separation. Specifically;

- Article 6.1 – In 2007, no separate accounts were published for infrastructure activities. We understand that since a separate subsidiary for infrastructure was set up in July 2007, that separate accounts are being prepared for 2008.
- Articles 6.1 – As separate accounts are not published for infrastructure activities, the accounts do not reflect the prohibition on the transfer of public funds between transport and infrastructure activities. Further, the statutory accounting system is not sufficiently detailed to detect public funding transfers.
- Article 9.4 – Separate accounts were not published for LDz Cargo in 2007. As they began operating independently in 2007, separate accounts for 2008 should be published.
- Article 9.4 – There are no separate entries in the accounts indicating amounts or uses of PSO compensation received.

15.6.8 The lack of information relating to public funding being made available by LDz or to Pasažieru Vilciens (from either of the companies' accounts) caused us to seek information directly from LDz and from the Latvian Ministry of Transport. Details of the public funding provided to these companies is summarised in Table 205 below.

Table 205: Public funding made available to Latvian railway industry

Year	**LDz** (for infrastructure development) *	**Pasažieru Vilciens** (PSO funding) **	**Pasažieru Vilciens** (grants for social objectives) **
2004	€7.2 m	€11.82 m	€2.21 m
2005	€17.3 m	€20.75 m	€2.21 m
2006	€26.0 m	€27.98 m	€2.21 m
2007	€24.2 m	€33.42 m	€2.31 m

** Source: correspondence with LDz, March 2009. Substantial proportions of these amounts are from EU funds.*
*** Source: correspondence with Latvian Ministry of Transport, Rail Department, March 2009.*
**** Source: correspondence with Latvian Ministry of Transport, Rail Department, March 2009. These include provisions 'for disabled peoples' transport' and for 'politically repressed persons' transport.' Upon further enquiry, we have gathered that the latter refers allowances for those who were repressed during the Soviet era.*

15.6.9 LDz's operating and financial performance is shown in Table 206 below.[291] The table shows a profitable company, with an 11.3 per cent pre-tax profit margin on total revenues. However, it is not clear whether the total revenue figures incorporate public funding and whether, therefore, the company would be loss-making without those funds.

[291] Monetary amounts were expressed in EURO using the exchange rate of LVL 1 = €1.4099 as calculated by Bloomberg on 27 May 2009. See http://www.bloomberg.com/invest/calculators/currency.html .

Table 206: Operating and financial performance of LDz

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	234	276	311	395
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	29
Wages, Salaries, Social Security Payments	0	0	0	300
Operating costs	226	272	301	343
Operating profit	8	4	11	52
Financial expenses	2	3	4	4
P&L on ordinary activities before tax	6	1	7	48
Total fixed assets	247	282	312	349
Long term receivables	1	1	1	1
Total current assets	27	29	36	66
Trade debtors	7	8	11	18
Other debtors	0	0	0	0
Current asset investments	0	0	0	0
Cash at bank and in hand	3	7	6	14
Creditors: <1yr (Current Liabilities)	54	68	68	63
Creditors: >1yr	65	88	121	150
Provisions for liabilities and charges	0	0	0	0
Equity	155	156	159	203
	No. / Km			
Average no. employees	12,435	12,702	12,599	13,620
Passenger-kilometres (m)	0	775	880	0
Tonne-kilometres (m)	16,877	0	0	0
Managed kilometres	2,288	2,288	2,288	2,166

15.6.10 Profits increased significantly in 2007, which could be related to the restructuring of LDz, which occurred that year.

15.6.11 The corresponding set of operational and financial ratios is presented in Table 207 below.

Table 207: Operational and financial ratios for LDz

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	234	276	311	395
Net profit (€m)	6	1	7	48
Operating profit (€m)	8	4	11	52
Total assets (€m)	274	312	348	416
Profitability				
Operating profit margin	3%	2%	3%	13%
Net margin	2%	0%	2%	12%
Return on assets	2%	0%	2%	12%
Return on equity	4%	1%	5%	24%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	0.5	0.6	0.6	0.6
Cost per staff member (€ '000)	18	21	24	25
Staff costs as a proportion of operating costs	0%	0%	0%	87%
Unit operating costs (€ '000)	-	350	342	-
Total Revenue per Passenger Km (€)	-	0.36	0.35	-
Total Revenue per Freight Km (€)	0.01	-	-	-
Total revenue per managed km (€m)	0.10	0.12	0.14	0.18
Indebtedness				
Total debt of the company (€m)	0	0	0	0
Debt / Total liabilities	0%	0%	0%	0%
Debt: Equity ratio	0.0	0.0	0.0	0.0
Quick ratio	0.2	0.2	0.3	0.5
Current ratio	0.5	0.4	0.5	1.0
Debt service coverage ratio	3.9	1.4	2.9	13.8
Public funding				
Total public income (€m)	0	0	0	29
Public funding / costs	0%	0%	0%	9%
Public funding / revenue	0%	0%	0%	7%

15.6.12 The table above shows the financial ratios of LDz which correspond with the financial results. Total debt appears as zero here as a result of the way in which it is calculated. Public income data was not available between 2004 and 2006 in the accounts. The profits appeared to be relatively low (2% - 3%) between 2004 and 2006, but this increased dramatically in 2007 following the company's restructuring.

15.7 JSC Pasažieru Vilciens (PV)

15.7.1 PV is a subsidiary of LDz. It was formed in 2001 from a merger of 3 passenger operating companies. PV provides passenger services on 12 routes.

15.7.2 The revenues for PV[292] are below €50m, however, it shall be analysed as it is the only major passenger undertaking in Latvia and is a subsidiary of the LDz Group.

15.7.3 The company receives PSO compensation and grants for the transport of disabled people and 'politically repressed persons' from the state (see Table 205). Until 2004, it received a separate subsidy for the payment of track infrastructure

[292] PV Annual report 2006, http://www.pv.lv/index.php?cat=345

costs to LDz. However, from 2005 onwards, funds for this were included in the PSO compensation.

Table 208 Accounting Issues

Issue	Quality	Comment
Audit Assurance	N/A	Only the annual statements of profit (loss) and balance sheet were available in English from the company's website. We could not access an English translation of the auditor's report.
Transparency	Poor	The financial statements do not have a detailed breakdown of many of the headline figures.
Visibility of transfers from/to other rail businesses	Poor	There is no visibility of transfers to and from other rail businesses.
Visibility of intergroup transfers	Partial	The Balance Sheet refers to amounts owed by and owed to 'affiliates'.

15.7.4 Our review of Pasažieru Vilciens' compliance with the requirements of Directive 2001/12/EC is shown in Table 209 below.

Table 209: Pasažieru Vilciens' compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Separate P&L and balance sheets kept for Pasažieru Vilciens, LDz's domestic passenger rail transport operator
6.1(a)	Requirement to publish separated accounts	Partial	The accounts for 2005 and 2006 are available for viewing on the company website.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	We were unable to identify any evidence suggesting that the transfer of public funds between infrastructure and transport activities is occurring.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts.
6.2	Distinct divisions or separate entities for rail services and	Yes	PV is a legally separate subsidiary of LDz. Similarly the

Article	Issue	Compliance	Comment
	infrastructure management		case with the establishment in 2007 of LDz Cargo as a similarly separate subsidiary.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	LDz does not provide freight services.
9.4(a)	Requirement to publish separated accounts	Yes	LDz does not provide freight services.
9.4	Funds for PSO transport activities shown separately in accounts	No	No separate entries in accounts for PSO funds received.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	We have found not evidence suggesting the transfer of PSO passenger funds to other businesses.

15.7.5 We were not able to obtain the full separated accounts for Pasažieru Vilciens as they do not appear to be published. Our review of the company's operating and financial performance has, therefore, had to be conducted based on English translations of the summary P&L and balance sheet statements on the company's website.

15.7.6 In our opinion, Pasažieru Vilciens does not comply with the requirements of the directives on accounting separation. Specifically:

- Article 6.1 – Summary P&L and balance sheets for 2005 and 2006 are available to view, but not download, from the company website.
- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.
- Article 6.1 – Amounts of public funding and their uses are not shown in accounts. Therefore this does not constitute keeping accounts in a manner which reflects the prohibition on the transfer of public funding.
- Article 9.4 – PSO transport funding is not shown separately in accounts.

15.7.7 Data on Pasažieru Vilciens' operating and financial performance is shown in Table 210 below. As with LDz, Pasažieru Vilciens showed a pre-tax profit (in 2005 and 2006) but it is unclear whether public funds are included in the revenue numbers and, therefore, whether the accounts paint a true picture.

Table 210 Pasažieru Vilciens' operating and financial performance data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	26	38	46	0
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	14	23	31	37
Wages, Salaries, Social Security Payments	0	0	0	0
Operating costs	30	37	45	0
Operating profit	-4	1	1	0
Financial expenses	0	0	0	0
P&L on ordinary activities before tax	-4	1	1	0
Total fixed assets	14	14	19	0
Long term receivables	0	0	0	0
Total current assets	3	5	5	0
Trade debtors	0	0	0	0
Other debtors	1	1	3	0
Current asset investments	0	0	0	0
Cash at bank and in hand	1	3	2	0
Creditors: <1yr (Current Liabilities)	7	3	7	0
Creditors: >1yr	0	5	6	0
Provisions for liabilities and charges	0	0	0	0
Equity	9	10	11	0
	No. / Km			
Average no. employees	1,201	1,175	1,136	0
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

15.7.8 The corresponding set of operating and financial ratios is presented in

Table 211: Operating and financial ratios for Pasažieru Vilciens

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	26	38	46	0
Net profit (€m)	-4	1	1	0
Operating profit (€m)	-4	1	1	0
Total assets (€m)	17	19	24	0
Profitability				
Operating profit margin	-15%	1%	1%	-
Net margin	-15%	1%	1%	-
Return on assets	-24%	3%	3%	-
Return on equity	-42%	5%	6%	-
Viability ratio	1	1	1	-
Efficiency				
Liabilities / operating costs	0.2	0.2	0.3	-
Cost per staff member (€ '000)	25	32	40	-
Staff costs as a proportion of operating costs	0%	0%	0%	-
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	5	5	6	0
Debt / Total liabilities	66%	60%	42%	-
Debt: Equity ratio	0.5	0.5	0.5	-
Quick ratio	0.3	1.4	0.7	-
Current ratio	0.4	1.6	0.7	-
Debt service coverage ratio	-	-	-	-
Public funding				
Total public income (€m)	14	23	31	37
Public funding / costs	48%	63%	68%	-
Public funding / revenue	55%	62%	67%	-

15.8 Gulbenes-Aluksnes banitis Ltd

15.8.1 This is a small railway undertaking, founded in 2001, which is owned by private individuals and by local municipalities. It operates the only narrow gauge railway in Latvia and offers a passenger undertaking on this line. It receives funding from the state in the form of PSO compensation and grants for disabled and 'politically repressed' persons, in much the same way as PV does.

15.8.2 The Ministry of Transport's railway department provided us with public funding information, which is presented below in

15.8.3 Table 212 below.

Table 212: Public funds made available to Gulbenes-Aluksnes banitis Ltd

Year	PSO funding	Grants for social objectives
2004	€0.15 m	€0.003 m
2005	€0.17 m	€0.003 m
2006	€0.29 m	€0.003 m
2007	€0.41 m	€0.003 m

15.9 Conclusions

15.9.1 Based on the information available, we can conclude the following:

- Latvia has fully transposed the directives on accounting separation into national legislation.
- In 2007, LDz was not wholly compliant with the directives on accounting separation or the national law reflecting them as it failed to produce and publish separate accounts for infrastructure and freight activities. Since then, however, the freight and infrastructure activities have been separated into independent subsidiaries. The resultant separated accounts for 2008 have not been published yet.
- LDz also failed to specify in the accounts the amounts and uses of public funding received during the period 2004 and 2007.
- PV, the passenger subsidiary of LDz, provided only summary balance sheets and profit and loss accounts for 2005 and 2006. These did not include details of PSO compensation and its uses.
- We have been unable to determine, for all companies, details about public funding due to a lack of detail in the accounts. Amounts shown in the report were obtained directly from the company or from government ministries.

16 LITHUANIA

16.1 Industry overview

16.1.1 The evidence suggests that there is only one licensed railway undertaking in Lithuania, namely the incumbent Lietuvos Gelezinkeliai (LG). Three other companies have received licences and safety certificates, but are not yet operational in the market. Lietuvos Gelezinkeliai or 'Lithuanian Railways' has traditionally operated as the vertically integrated infrastructure manager and railway undertaking. The company had a legal monopoly until 2006, when the market was officially liberalised.

16.1.2 Lithuanian Railways was reformed in 2006 through the establishment of three separate directorates, as follows:

- Directorate for Carriage of Goods;
- Directorate for Carriage of Passengers; and
- Railway Infrastructure Directorate.

16.1.3 The Lithuanian Government was planning, by early 2008, to hive off rail infrastructure from LG and transfer it to a separate state-owned company. Infrastructure access charging would be calculated and specified by the new company, rather than by decree issued by the State Railway Inspectorate (as was the case in the past).[293] However, as of May 2009, neither the legal or structural separation of infrastructure from railway operations nor amendments to legislation re charging had been implemented.

16.1.4 While Lithuanian railway market has been legally liberalised, commercial passenger operations would have to be performed in competition with network-wide transport provided under public service contracts. These are awarded on a discretionary basis to the incumbent.

16.1.5 The relevant government department is the Ministry of Transport and Communications. It is obliged to initiate investigations at the request of railway undertakings, but its power is restricted because objections to its decisions have a suspensive effect and it can neither order coercive measures nor impose fines. Moreover, it can only issue ex post decisions.

16.1.6 The Transport Investment Directorate administers transport development projects which are funded from the European Regional Development Fund, the Cohesion Fund, other EU structural assistance funds (2007-2013), the TEN-T fund as well as from resources from the State budget.

16.1.7 The State Railway Inspectorate has a wide remit, including issuing licences and safety certificates, the homologation of rolling stock, allocation of train paths and specification of infrastructure charges. Separate licence applications are required for passenger and freight operations, which are then valid for an unlimited period of time and over the entire national network. Licences from other Member States are recognised and all licences are verified every three years.

16.1.8 There is no evidence on non-discriminatory access issues because the incumbent LG is the only active railway undertaking in Lithuania to date. The lead time for application for a regular train path is twelve months and applications can also be submitted for ad hoc train paths. Infrastructure charging is linear with no bulk or other discounts.

16.1.9 The modal share of rail passenger transport in Lithuania dropped from 7.2 per cent in 1995 to 1.3 per cent in 2004, which leaves the country with the lowest

[293] See IBM's Rail Liberalisation Index, 2007.

share of passenger transport volumes in Europe. The share of the rail freight segment has also fallen substantially, from 50 per cent in 1995 to 38 per cent in 2004. While cargo has been LG's focus in the past, it is concentrating much more on passenger service recently.

16.1.10 More recently, LG saw its freight traffic decline by 32.5 per cent in the first quarter of 2009 compared to the same period last year.[294] Year-on-year, LG's international freight volumes slumped 39.4 per cent to 6.8 million tonnes, while domestic freight traffic fell by 9.1 pre cent to 3 million tonnes.

16.1.11 The passenger rail industry faces stiff competition from other modes of transportation. The most intense competition for trains comes from two sources – buses and private cars. But rail transport is handicapped by the government's preference to invest in road infrastructure. The government has recently been turning its sights to rail infrastructure due to road congestion but also the availability of funds from the EU for rail investments.

16.1.12 In terms of network geography, Vilnius is connected with the main cities of the Republic, but also with many other cities across Europe. With the industry apparently back on an upswing, there are a number of new lines and improvements being planned. The most ambitious of these is RailBaltica – the massive project aimed at linking Helsinki to Warsaw through the Baltic States. Though the project has recently been bogged down by structural and funding issues, the long-term plans have not been changed.

16.1.13 The Conference of Transport Ministers of European Countries in 1994 in Crete stated that the interests of Lithuania should be taken into account when developing international East and Central European transport corridors. For instance, the first such corridor (North-South) is to link Helsinki and Warsaw through Tallinn, Riga and Kaunas. The ninth corridor, linking Plovdiv and Helsinki by means of its branch IXB starting in Kiev and crossing Minsk, will reach Vilnius, Kaunas and Klaipeda. The IXD branch of the corridor will be developed to link Klaipeda and Kaliningrad through Kaunas.

16.2 List of Licensed Railway Undertakings

Passenger	Freight	Infrastructure Manager
Lietuvos Gelezinkeliai Eismina Unigela	Lietuvos Gelezinkeliai Eismina Unigela Klaipeda Stevedoring Company (BEGA)	Lietuvos Gelezinkeliai

N.B. Eismina, Unigela and BEGA are, as far as we can make out, not yet operational in the Lithuanian market.

16.3 Industry Regulator & Government Departments

[294] See "Lithuania: LG records 32.5% drop of freight traffic in Q1", from *Railway Market: Central and Eastern European Review*, April 2009. Available at http://www.railwaymarket.eu .

16.3.1 Government departments:

- o Ministry of Transport and Communications[295]
- o Transport Investment Directorate[296]

16.3.2 Industry regulator

16.3.3 National Control Commission for Prices and Energy[297]

16.3.4 State Rail Inspectorate[298] (part of the Ministry of Transport and Communications)

16.3.5 The Government of the Republic of Lithuania (specifically the Ministry of Transport and Communications) shapes railway transport strategy and coordinates its implementation. This incorporates rail transport policy, modernisation and development, safety and environmental programs. The Ministry also coordinates international relations in the area of rail transport.

16.3.6 The State Railway Inspectorate is an agency of the Ministry. It monitors international treaties and other legislation governing railway safety issues, issues rail transport licenses and supervises compliance with the conditions of those licenses. It also issues safety certificates.

16.3.7 The independent National Control Commission for Prices and Energy is the market regulator. It deals with complaints from railway undertakings relating to the public rail infrastructure manager in relation to decisions about the network, capacity, track access charges (including levels and structure).

16.3.8 These complaints are examined in accordance with the procedures established by the Ministry. The regulator's decision must be made within 2 months of the receipt of all information relevant to the complaint. Regulatory decisions can be appealed before the courts.

16.4 Legal Framework

16.4.1 Railway transport operations are regulated according to the Railway Transport Code of the Republic of Lithuania.[299] Article 4 of the Code establishes the overall principles governing rail transport in Lithuania.

Article 4 – Rail transport principles

1) The public railway infrastructure should be provided on the basis of equal rights and access on non-discriminatory terms, including between different European Union Member States.
2) Fair competition with other transport branches.[300]
3) Railway companies (carriers) autonomy in managing the administrative, economic, accounting and internal control matters.
4) Separate management of railway transport services and public infrastructure-related activities, including the production of separate profit (loss) statements and balance sheets. State budgets allocated to one of these activities cannot be used for financing other activities.

[295] See http://www.transp.lt
[296] See http://www.tid.lt
[297] See http://regula.lt/en/transport/
[298] See http://www.vgi.lt
[299] Originally dated April 22, 2004 but amended June 8, 2006
[300] We assume that 'branches' here refers to alternative modes of transport.

5) Separate accounts should be maintained for cargo and passenger rail operations. Funding for passenger services must be considered separately from funding for freight services.

16.4.2 Article 12 establishes the rules governing public service obligations.

Article 12 – Public Service Obligations to discharge

3) The railway companies (the carrier) providing public service obligations, non-PSO rail transport and rail infrastructure management must keep separate accounting records of these activities. The funds allocated to public service obligations can not be transferred to another railway company business.

Table 213 EC Directive 2001/EC/12 transposition

Article	Issue	Transposition	Lithuanian law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	'Separate management of railway transport services and public infrastructure-related activities, including the production of separate profit (loss) statements and balance sheets.'
6.1(a)	Requirement to publish separated accounts	No	There is only mention of producing, keeping and maintaining separate accounts, not publishing them.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	'State budgets allocated to one of these activities cannot be used for financing other activities.'
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	'Separate management of railway transport services and public infrastructure-related activities, including the production of separate profit (loss) statements and balance sheets.'
6.2	'Member States may also provide that this separation shall require the rganization of distinct divisions within a single	Yes	'Separate management of railway transport services and public infrastructure-related activities'

Article	Issue	Transposition	Lithuanian law
	undertaking or that the infrastructure shall be managed by a separate entity.'		
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	'Separate accounts should be maintained for cargo and passenger rail operations.'
9.4(a)	Requirement to publish separate accounts	No	There is only mention of producing, keeping and maintaining separate accounts, not publishing them.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	'The railway companies (the carrier) providing public service obligations, non-PSO rail transport and rail infrastructure management must keep separate accounting records of these activities.'
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	'The funds allocated to public service obligations can not be transferred to another railway company business.'

16.4.3 In our opinion, Lithuania has not fully transposed the directives into national legislation. However, this extends only to the failure to stipulate that the separated accounts must be published.

16.5 Sources of Information

- http://www.baltictimes.com/news/articles/19756/ - "Train Travel – Turning passenger rail service around", by Talis Saule Archdeacon, Jan 30, 2008.
- Railway Market: Central and Eastern European Review. Available at http://www.railwaymarket.eu
- Lietuvos Gelezinkeliai (LG) Annual Report and Accounts, 2007.
- LG's website at http://www.litrail.lt
- ECORYS (2006), "Analysis of the financial situation of railway undertakings in the European Union", Report for the European Commission, DG TREN.
- IBM Global Business Services (2007), Rail Liberalisation Index 2007.

- Information provided by the Lithuanian Department of Transport and Communications – Railways section.
- The Ministry of Transport and Communications website at http://www.transp.lt
- The National Control Commission for Prices and Energy website at http://regula.lt/en/transport/
- The State Railway Inspectorate website at http://www.vgi.lt

16.6 Lietuvos Gelezinkeliai (LG)

16.6.1 Lietuvos Gelezinkeliai (LG) is the only licensed railway undertaking in Lithuania.

16.6.2 LG's network is 2001 km, 1811 km of which is of 1520 mm gauge, 21.8 km are European Standard, 1435 km of double track and 122 km electrified lines. The railway network density in Lithuania is 3.1 km per 100 km2, with 5.4 km of track per 10,000 inhabitants. Freight is handled in seven yards, three of them having mechanised sorting humps.

16.6.3 Freight is received at 97 stations and passenger tickets are sold at 157 stations. Lithuanian Railways has 2 locomotive, 1 diesel and 3 wagon depots. Its park has 234 passenger and freight engines, 104 shunting locomotives, 56 diesel and 13 electric trains, 336 passenger cars and 13,138 freight wagons. Lithuanian Railways employs 17,844 people.

16.6.4 Goods are carried by Lithuanian Railways via the Klaipeda-Mukran ferry and the port of Klaipeda in various closed and open wagons, tanks, containers, refrigerators, etc.

16.6.5 The freight terminal in Sestokai has been in operation since 1993. At present 27 wagons can be accepted there for unloading. There are facilities for covered wagon loading and unloading. Goods to Poland, Austria, Italy, Germany and the Czech Republic are sent from Sestoka, and goods from Western Europe are sent to the CIS, Baltic and Scandinavian countries.

16.6.6 The governance structure of the Lithuanian railway industry and of LG is illustrated in Figure 13 below.[301] LG's annual reports refer to the 'Group' and the 'Company'. Although not confirmed, we presume that the Company consists of the three main Directorates (railway infrastructure, passenger and freight) as well as at least part of the administrative department and, perhaps, of the IT Centre. If so, then the Group would include the Company, parts of the Administration, part of the IT Centre and the subsidiary companies (of which there are 5, including 2 railway construction companies, a rolling stock overhaul company, a railway security company and a turnout manufacturing company).

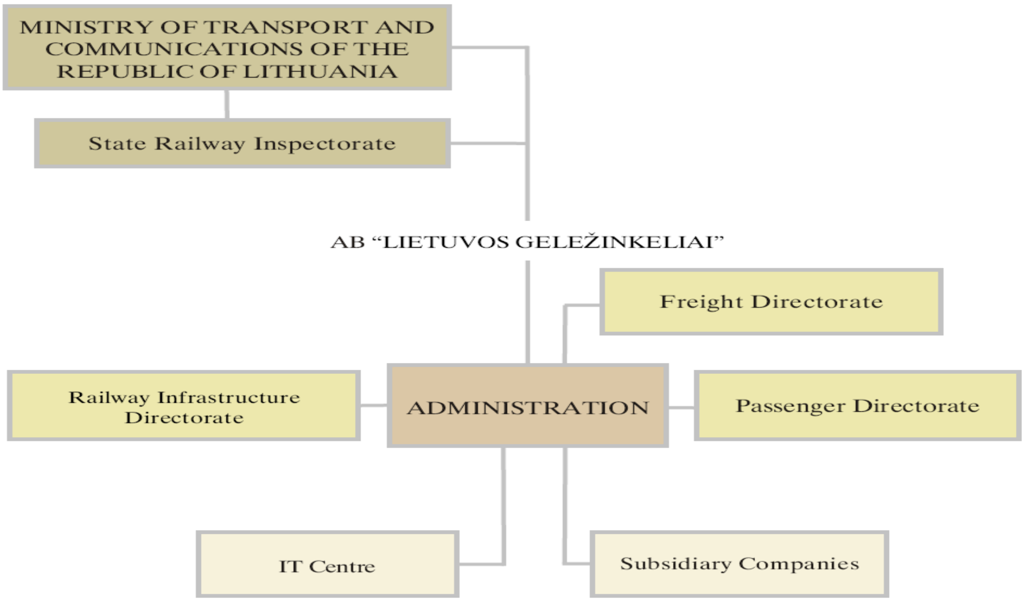
16.6.7 In 2007, LG's revenues increased by 15 per cent compared to 2006, with the major part of revenues (87.8 per cent) coming from freight transportations. Revenues from freight services rose by 18 per cent in the same period on the back of a significant boost in transportation volumes and, according to the company, effective pricing. Greater revenues were derived from transit freight, as well as from supplementary services provided at stations.

16.6.8 Passenger revenues accounted for a relatively small 4.5 per cent of total revenues in 2007, even though it represented a 17 per cent increase over 2006. This was due to higher passenger numbers on international lines and higher fares. However, revenues from passenger services combined with state

[301] Taken from LG's 2007 Annual Report and Accounts, page 33.

subsidies were insufficient to cover the costs incurred. Passenger services were, therefore, loss-making.

Figure 13: Governance structure of Lithuanian railways



16.6.9 Our review of LG's annual reports is set out in Table 24 below.

Table 214 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Company and the Group as of 31 December 2007, and their financial performance and their cash flows for the year then ended in accordance with Business Accounting Standards of the Republic of Lithuania.' UAB Ernst & Young Baltic, 4 April 2008.
Transparency	Poor	Individual P&L and balance sheets produced only for the 'Company' and the 'Group'. It is only possible to identify separately the revenues between the rail passenger and rail freight parts of the business (based on commentary in the annual report).
Visibility of transfers from/to other rail businesses	Partial	In the balance sheets for the 'Group' and the 'Company' under 'Financial Assets', there are reported amounts for 'Investments into subsidiaries and associated companies'. No further details are provided.
Visibility of intra-group transfers	Poor	Accounts for the 'Group' and the 'Company' are presented on a consolidated basis only, so there is no visibility of flows (if any) between the individual

Issue	Quality	Comment
		infrastructure and service Directorates.

16.6.10 In Table 215 below, we present our assessment of LG's compliance with the requirements of Directive 2001/12/EC.

Table 215 LG's compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	No	Separated accounts produced for the 'Company' and the 'Group' only.
6.1(a)	Requirement to publish separated accounts	No	Separated accounts are not published for transport and infrastructure services.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We have not encountered any evidence suggesting that public funds are transferred between the infrastructure manager and the rail operator.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	Separate directorates for rail services and infrastructure manager but no legal or accounting separation.
9.4	'In the case of railway undertakings, profit and	No	Only proportional share of total revenue from freight rail

Article	Issue	Compliance	Comment
	loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.’		operations reported. No separate P&L and balance sheet.
9.4(a)	Requirement to publish separate accounts	No	Separated accounts are not published for freight services.
9.4	‘Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	No	The 2007 Annual Report states that state subsidies of LTL 19.2 million (€5.56 million) were allocated to passenger traffic.
9.4	‘…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	We have not encountered any evidence suggesting that PSO passenger funds are being transferred.

16.6.11 In our opinion, LG are not compliant with the requirements of the accounting separation directives. Specifically:

- Article 6.1 – Separate accounts are not published for infrastructure and passenger activities.
- Article 6.1 – The accounts are not kept in a way which reflects the prohibition on the transfer of public funds between the company’s different activities.
- Article 9.4 – No separate P&L or balance sheet is produced or published for the company’s freight activities.
- Article 9.4 – State subsidies are shown in a single lump sum for passenger activities. This is not, however, broken into the different PSO contracts which LG receives income for fulfilling.

16.6.12 Details of the public funding made available to LG 2006-2007 are shown below. Sources mentioned include Lithuanian State funding, the EU Cohesion Fund and the European Regional Development Fund. The allocation of these funds to different parts of the business is not visible in the accounts.

Table 216: Public funding made available to LG

Year	**Group**	**Company**
2006	€162.2 million	€162.15 million
2007	€188.3 million	€188.25 million

16.6.13 Indicators of LG's operating and financial performance are shown in Table 217 below. These indicators are based on the consolidated accounts for the 'Company'. Only the 2006 and 2007 accounts were available.

Table 217: LG's operating and financial performance indicators

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	-	-	350	410
Revenue from Passenger transport	-	-	-	-
Revenues from Freight transport	-	-	-	-
Revenue from infrastructure charges	-	-	-	-
Total subsidisation	-	-	162	190
Wages, Salaries, Social Security Payments	-	-	-	-
Operating costs	-	-	315	364
Operating profit	-	-	35	46
Financial expenses	-	-	0	0
P&L on ordinary activities before tax	-	-	41	48
Total fixed assets	-	-	766	849
Long term receivables	-	-	0	0
Total current assets	-	-	80	111
Trade debtors	-	-	27	26
Other debtors	-	-	7	9
Current asset investments	-	-	0	9
Cash at bank and in hand	-	-	7	27
Creditors: <1yr (Current Liabilities)	-	-	75	86
Creditors: >1yr	-	-	229	259
Provisions for liabilities and charges	-	-	6	5
Equity	-	-	536	610
	No. / Km			
Average no. employees	-	-	-	-
Passenger-kilometres (m)	-	-	-	-
Tonne-kilometres (m)	-	-	-	-
Managed kilometres	-	-	-	-

16.6.14 The table above shows substantial revenue growth between 2006 and 2007. The Company also appears to be profitable despite the statement that the combination of revenues for passenger rail services and state subsidies did not cover the costs incurred and, therefore, that passenger services were loss-making.

16.6.15 A set of financial ratios for LG is presented in Table 218 below.

Table 218: Financial ratios for LG

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	-	-	350	410
Net profit (€m)	-	-	41	48
Operating profit (€m)	-	-	35	46
Total assets (€m)	-	-	846	960
Profitability				
Operating profit margin	-	-	10%	11%
Net margin	-	-	12%	12%
Return on assets	-	-	5%	5%
Return on equity	-	-	8%	8%
Viability ratio	-	-	1.11	1.13
Efficiency				
Liabilities / operating costs	-	-	1.0	1.0
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	-	-	-	-
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	-	-	235	259
Debt / Total liabilities	-	-	76%	74%
Debt: Equity ratio	-	-	0.4	0.4
Quick ratio	-	-	0.5	0.8
Current ratio	-	-	1.1	1.3
Debt service coverage ratio	-	-	-	-
Public funding				
Total public income (€m)	-	-	162	190
Public funding / costs	-	-	51%	52%
Public funding / revenue	-	-	46%	47%

16.6.16 Debts appear to be low, comparatively speaking and the gearing ratio is unusually low at about 14 per cent in 2007. The relatively high current ratio suggests that this is long term debt. The amount of public funding received is equivalent to about 46 per cent of the company's overall revenues.

16.7 Conclusions

16.7.1 From the evidence available, we can conclude that:

- Lithuania has transposed the majority of the directives into national legislation but has failed to explicitly specify the need to publish the separated accounts.
- Lietuvos Gelezinkeliai is the only licensed railway company in Lithuania. In 2007, it did not comply with the requirements of its national legislation or with the requirements of the directives as it did not publish separate infrastructure, freight or passenger accounts and their format did not reflect the prohibition on the transfer of public funds.
- State subsidies are shown in a single lump sum for passenger activities but this is not separated into sums for different PSO contracts.

17 LUXEMBOURG

17.1 Industry overview

17.1.1 The only licensed railway company in Luxembourgh is Societe Nationale des Chemins de Fer Luxemourgeois (CFL), the state owned incumbent railway company. CFL is fully integrated operator, providing infrastructure management, passenger and, through a separated subsidiary, freight services. The infrastructure management and passenger operations are supplied under a public service contract with the State.

17.1.2 In 2006, CFL Cargo was formed as a joint venture between CFL and ArcelorMittal; a steel production company and the country's largest rail freight customer. CFL Cargo also operates freight services in Germany and Denmark through subsidiaries. It is the only freight operating company in Luxembourg.

17.1.3 The law of the 24th July 2006 transposed the European directive relating to rail industry regulation. Consequently, the Commission Speciale was set up in order to investigate complaints relating to rail markets.

17.2 List of Licensed Railway Undertakings[302]

Passenger	Freight	Infrastructure Manager
CFL*	CFL Cargo*	CFL*

*Companies with revenues greater than €50m which will be studied in depth.

17.3 Industry Regulator & Government Departments

- Ministry of Transport
    - Ministère des Transports [303]
- Ministry of Finance
    - Ministere des Finances[304]

17.4 Legal Framework

17.4.1 Law of 24th July 2006 amending;

a) Law of 10th May 1995 on management of railway infrastructure.

b) Law of 28th March 1997

c) Law of 11th June 1999 on access to railway infrastructure and its use

d) Act of 29th June 2004 on public transport

Article 6

The third paragraph of article 20 of the amended Law of 10th May 1995 above is replaced by the following;

[302] European Railway Agency, www.era.europa.eu

[303] www.mt.public.lu

[304] www.mf.public.lu

'The CFL on railway management are required, according to the principles and procedures of business accounting, to keep and publish separate accounts of profit and loss and separate annual financial statements describing assets and liabilities, on the one hand, for the activities in the management of railway infrastructure and, secondly, for other activities including the provision of transport services. Public aid paid to any of these categories of activities can not be transferred to another and this prohibition should be reflected in the accounts relating thereto.'[305]

Table 219 EC Directive 2001/EC/12 compliance

Article	Issue	Compliance	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	'The CFL on railway management are required, according to the principles and procedures of business accounting, to keep and publish separate accounts of profit and loss and separate annual financial statements describing assets and liabilities, on the one hand, for the activities in the management of railway infrastructure and, secondly, for other activities including the provision of transport services.'
6.1(a)	Requirement to publish separated accounts	Yes	'The CFL on railway management are required, according to the principles and procedures of business accounting, to keep and publish separate accounts of profit and loss and separate annual financial statements describing assets and liabilities, on the one hand, for the activities in the management of railway infrastructure and, secondly, for other activities including the provision of transport services.'
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	'Public aid paid to any of these categories of activities can not be transferred to another…'
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	'…and this prohibition should be reflected in the accounts relating thereto.'
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	We have not encountered any legislation which refers to this point, however, the word 'may' implies that it is optional.
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	No (i)	We have been unable to identify any legislation which stipulates the specific need to keep separate freight accounts.
9.4(a)	Requirement to publish separate accounts	No	We have been unable to identify any legislation which stipulates the specific need to publish these accounts.

[305] www.legilux.public.lu

9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No (ii)	We have been unable to identify any legislation which stipulates the specific need to show PSO income separately in accounts.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	No	We have been unable to identify any legislation which prohibits the transfer of PSO funds.

17.4.2 Notes

(i) The legislation refers to 'other activities including the provision of transport services.' This does not clearly distinguish between freight and passenger services, only infrastructure and transport. However, this point of the directive has been enforced in practice since 2006.

(ii) There is no specific reference to public service remits.

17.4.3 In our opinion, the directives on accounting separation have not been transposed into Luxembourgish law. Specifically:

- Article 9.4 – We were unable to locate any domestic legislation referring to the need to produce or publish separate accounts for freight activities.
- Article 9.4 – We did not identify any legislation referring to the requirement to show PSO compensation separately in accounts.
- Article 9.4 – We did not identify any legislation referring to the prohibition on the transfer of PSO funds.

17.4.4 It is not clear who is responsible for monitoring compliance with the requirements of the directives on accounting separation.

17.5 Sources of Information

17.5.1 Luxembourgish laws and regulations:

- Law of 24th July 2006[306]

17.5.2 Annual accounts:

- CFL Cargo Annual Reports (2006 – 2007)
- CFL Group Annual Reports (2004, 2006, 2007)

17.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- CFL website, March 2009[307]
- CFL Cargo website, March 2009[308]
- Database of Luxembourgish laws[309]

[306] www.legilux.public.lu
[307] www.cfl.lu
[308] http://www.cfl.lu/CFLInternet/Espaces/03EspaceFret/
[309] www.legilux.public.lu

- Correspondence with CFL Cargo, February 2009

17.6 CFL Group

17.6.1 CFL Group is Luxembourg's state owned, integrated rail company, offering passenger, freight and infrastructure management services. They are the only native operator with a license to operate in Luxembourg. The CFL managed infrastructure covers around 275 km.

17.6.2 In 2006, CFL Cargo was formed as a separate company, a joint venture between CFL and ArcelorMittal (which is primarily a steel company). CFL Group owns 66.67% of this subsidiary.

Table 220 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements give a true and fair view of the financial position of the Company Nationale des Chemins de Fer Luxembourgeois on 31st December 2007 and the results for the year ended on that date, in accordance with legal and regulatory requirements relating to the preparation and presentation of annual accounts in force in Luxembourg.' Deloitte, May 2008
Transparency	Good	There is a high level of detail given in the annual reports for CFL Group, including state contributions and a breakdown of all costs and revenues into those incurred by infrastructure and the various transport operations.
Visibility of transfers from/to other rail businesses	Poor	There does not appear to be a record of transfers from other rail businesses.
Visibility of intra-group transfers	Poor	There does not appear to be a record of transfers between group companies.

17.6.3 CFL Group's compliance with the EC directives on accounting separation is set out in the table below.

Table 221 EC Directive 2001/EC/12 compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	The P&L and balance sheet shows disaggregated entries for track operations and for infrastructure activities.
6.1(a)	Requirement to publish separated	Yes	The CFL accounts are

	accounts		published and available for download from the company's website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We have not identified any evidence suggesting that CFL is transferring public funds between infrastructure and passenger activities.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by CFL Group. Further detail of the information required is in chapter 29.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	CFL has separate business divisions for passenger transport and infrastructure management.
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	CFL does not provide freight services directly. Rail freight is performed by a separate subsidiary (see CFL Cargo).
9.4(a)	Requirement to publish separate accounts	Yes	CFL does not provide freight services directly. Rail freight is performed by a separate subsidiary (see CFL Cargo).
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	Passenger public funding is shown separately in the P&L, however, this is shown as a single payment and there is no breakdown of the different PSO contracts.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	We have not encountered any evidence suggesting that PSO compensation is being transferred to other activities.

17.6.4 In our opinion, CFL Group does not wholly comply with the accounting separation requirements of the directives. Specifically:

- Article 6.1 – There is no record of transactions between the company's business units.and the statutory accounting regime is not sufficient to detect the illegal transfer of public funding.
- Article 9.4 – Compensation for passenger PSO funding is not disaggregated by contract, rather, it is shown as a lump sum on the P&L.

Table 222 Public funding from accounts

Year	2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
Passenger PSO	111	PSO	126	PSO	130	PSO
Infrastructure funding			34	Various infrastructure	38	Various infrastructure
Total	111		160		168	

17.7 CFL Cargo

17.7.1 CFL Cargo is a joint venture by CFL (66.67%) and ArcelorMittal – the world's largest manufacturer of steel, (33.33%), which was created in 2006 and has operations in Luxembourg, Germany and Denmark. These are operated through subsidiaries (CFL Cargo Deutschland and CFL Cargo Danmark respectively). It was originally formed as a merger of EuroLuxCargo, Neg Uetersen and Dansk Jernbane Aps (all subsidiaries of CFL) and the internal transport undertaken by ArcelorMittal (then known as Arcelor.)

17.7.2 In 2006 there were concerns about the vertical integration of a cargo company and a steel manufacturer due to the risk that there would be consequences for the supply of railway freight transport. However, although Arcelor was the largest customer of rail freight transport in Luxembourg, the transport services were to continue to serve ex CFL customers and the EC approved the acquisition.

17.7.3 CFL Cargo is the only freight operator in Luxembourg and transports over 8.5 million tonnes of goods each year.

17.7.4 Accounting Issues

Table 223 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the accounts give a true and fair view of the financial situation of CFL cargo at 31st December 2007, and the results for the year ended on that date in accordance with legal and regulatory obligations relating to the establishment and the presentation of annual accounts into force in Luxembourg.' Deloitte, February 2008
Transparency	Partial	There is an average level of detail given in the annual reports for 2007. There is some breakdown of costs, however, there is no breakdown of transfers to other rail companies for, for example, track access charges.
Visibility of transfers from/to other rail businesses	Poor	There is no detail of transfers from rail businesses.
Visibility of intra-group transfers	Partial	There is some explanation of transfers from CFL until 2006 (See section on Accounting separation compliance), however, this no longer applies. The notes to the accounts show 'Debts to affiliated

		enterprises' and 'Debts to enterprises with strong participation', however, this is vague and there is no breakdown. The revenues generated from CFL Cargo's subsidiaries (CFL Cargo Deutschland and CFL Cargo Danmark) are given in the notes to the report. No breakdown is given. Note 9 to the accounts (Other External Charges) explains an aggregate figure (€60,779,325.58) which includes 'rental costs, maintenance and insurance, the costs of making staff available to the parent company and other external charges.' No breakdown of this figure is given.

17.7.5 CFL Cargo's compliance with the EC directives on accounting separation is set out in the table below.

Table 224 EC Directive 2001/EC/12 compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	CFL Cargo does not provide infrastructure or passenger services.
6.1(a)	Requirement to publish separated accounts	Yes	CFL Cargo does not provide infrastructure or passenger services.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	CFL Cargo does not provide infrastructure or passenger services.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	CFL Cargo does not provide infrastructure or passenger services.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	CFL Cargo does not provide infrastructure or passenger services.
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	CFL Cargo produces separate accounts to CFL (which provides infrastructure and passenger services).
9.4(a)	Requirement to publish separate accounts	No	These accounts are not published and our analysis has been conducted upon accounts

			provided to us by the company.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	CFL Cargo does not provide passenger services and, hence, does not receive passenger PSO compensation.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	CFL Cargo does not provide passenger services and, hence, does not receive passenger PSO compensation.

17.7.6 In our opinion, CFL Cargo is not wholly compliant with the directives on accounting separation, however, this would be remedied simply by the company publishing their accounts. An issue remains surrounding whether the statutory accounts are sufficiently detailed to detect illegal transfers of public funding.

Table 225 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	0	4	25	124
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	1	20	117
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	0	1	1	3
Operating costs	0	7	30	134
Operating profit	0	-3	-5	-10
Financial expenses	0	0	0	0
P&L on ordinary activities before tax	0	-3	-5	-10
Total fixed assets	0	7	70	67
Long term receivables	0	0	0	0
Total current assets	0	2	100	101
Trade debtors	0	0	19	5
Other debtors	0	1	2	24
Current asset investments	0	0	0	0
Cash at bank and in hand	0	1	79	71
Creditors: <1yr (Current Liabilities)	0	0	26	32
Creditors: >1yr	0	3	2	4
Provisions for liabilities and charges	0	0	0	1
Equity	0	6	143	131
	No. / Km			
Average no. employees	-	-	-	-
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

Table 226 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	0	4	25	124
Net profit (€m)	0	-3	-5	-10
Operating profit (€m)	0	-3	-5	-10
Total assets (€m)	0	9	171	168
Profitability				
Operating profit margin	-	-81%	-20%	-8%
Net margin	-	-82%	-20%	-8%
Return on assets	-	-34%	-3%	-6%
Return on equity	-	-54%	-3%	-8%
Viability ratio	-	1	1	1
Efficiency				
Liabilities / operating costs	-	0.5	1.0	0.3
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	-	11%	3%	2%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	0	3	18	13
Debt / Total liabilities	-	95%	65%	37%
Debt: Equity ratio	-	0.6	0.1	0.1
Quick ratio	-	3.8	3.9	3.2
Current ratio	-	3.8	3.9	3.2
Debt service coverage ratio	-	-53.5	-54.2	-40.6
Public funding				
Total public income (€m)	0	0	0	0
Public funding / costs	-	0%	0%	0%
Public funding / revenue	-	0%	0%	0%

17.7.7 The accounts show that revenues have increased year on year between 2006 and 2007, although the company continues to make an operating loss. Hwoever, healthy quick and current ratios indicate that the company is not struggling to service its debts. As the company provides only freight services, it does not receive any public funding.

17.8 Conclusions

17.8.1 From the evidence available, we can conclude that:

- The accounting separation directives have not been fully transposed into the national legislation of Luxembourg. Particularly, we were unable to locate legislation relating to article 9.4, meaning that there was no mention of need to produce and publish separate accounts for freight activities or for the need to show PSO compensation separately in the accounts and the prohibition on its transfer.
- CFL is not wholly compliant but only lacks detail on the transactions between the company's business units and to disaggregated data on PSO funding.
- CFL Cargo does not publish separated accounts, however, we were able to obtain them directly from the company and, apart from a failure to publish the accounts, they were compliant with the directives.

18 THE NETHERLANDS

18.1 Industry overview

18.1.1 In the Netherlands, Nederlandse Spoorwegen NV (NS), the passenger transport operator, has been legally separate from the infrastructure management operator and the freight operator since 2003 and 2000 respectively. NS is the only provider of passenger transport operations in the Netherlands, for which they have a concession.

18.1.2 The infrastructure operations were separated by the Railway Act (Spoorwegwet), introduced in 2003 leading to the formation of Prorail; a government entity responsible for railway infrastructure management, capacity allocation, traffic control and the ownership of infrastructure.[310] Prorail has a concession to operate the main Dutch rail infrastructure. [311]

18.1.3 The freight operations of the former state owned monopoly were separated when NS Cargo NV, the freight operating subsidiary of NS, separated from NS and merged with DB Cargo AG to become Railion – the main freight subsidiary of Deutsche Bahn (DB). The Dutch subsidiary of Railion became known as Railion Nederland. Recently Railion has been renamed as DB Schenker and the Dutch subsidiary is now known as DB Schenker Rail Nederland. Though several freight operators compete on the Dutch network, DB Schenker Rail Nederland remains by far the largest provider of freight transport.

18.1.4 The industry is regulated by the Dutch competition authority, the NMa (Nederlandse Mededingingsautoriteit). Recently, on the 23rd January 2009, the NMa imposed fines of €876,000 for two violations of the Dutch Railway Act. They were fined €776,000 for acting in a discriminatory manner against Connexxion and a further €100,000 for taking longer than the time limit to perform a capacity analysis.[312]

18.1.5 During 2008 the NMa handled 9 complaints in total and imposed fines of €1,752,000 on ProRail for violations of the Dutch Railway Act. One of these complaints was from NS and related to the infrastructure charge. The NMa ruled that ProRail 'could not pass on the increase of the infrastructure charge to NS the way it intended to do so, because this would be inconsistent with the principles that ProRail itself attached to the infrastructure charge. The fact that only NS was faced with the increase (and not the other undertakings), without any objective justification, was considered to be discriminatory.'[313]

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[310] Correspondence with NMa, April 2009

[311] Beheerconcessie hoofdspoorweginfrastructuur – Management Concession of the Main Railway, 2004 & *Vervoerconcessie voor het hoofdrailnet* – Transport Concession of the Main Rail Network, 2004, www.nmanet.nl

[312] Bird & Bird solicitors, Competition Law Bulletin, January 2009; http://www.twobirds.com/English/News/Pages/CompetitionLawBulletin_01.09.htm

[313] NMa Annual Bulletin 2008, www.nmanet.nl

18.2 List of Railway Undertakings

Passenger	Freight	Infrastructure Manager
Nederlandse Spoorwegen NV (NS)*	Railion Nederland (Now DB Schenker)* ACTS Nederland BV B-Cargo CTL Logistics SA Dillen & De Jeune Cargo NV ERS Railways BV Fret SNCF Hafen und Guterverkehr Koln AC ITL-Benelux Rail4Chem Benelux BV (bought by Veolia in 2008) Rotterdam Rail Feeding B.V. (RRF) TX Logistik Rurtalbahn Benelux B.V. Veolia Cargo Nederland BV	ProRail* Keyrail

*Companies with Dutch revenues greater than €50m which will be studied in depth.

18.3 Industry Regulator & Government Departments

- Regulatory Authorities
  - The Railway Inspectorate (IVW, Divisie Rail)[314]
  - The Dutch safety board (formerly the Transport Safety Board)[315]
  - Competition Authority (NMa)[316]
- Ministry of Finance
  - Ministerie van Financiën[317]
- Ministry of Transport
  - Ministerie van Verkeer en Waterstaat[318]

18.4 Legal Framework

18.4.1 Competition Act, 1997[319]

[314] www.ivw.nl
[315] www.safetyboard.nl
[316] www.nmanet.nl
[317] www.minfin.nl
[318] www.verkeerenwaterstaat.nl
[319] Ibid

18.4.2 This general law requires state funded undertakings to meet certain accounting requirements..This is posted under a chapter 4a entitled Financial Transparency within Certain Undertakings.

Section 25b
Undertakings, to which a special or exclusive right has been granted, in accordance with Article 86 (1) of the Treaty, or which, in accordance with Article 86 (2) of the Treaty, are entrusted with providing a service in the public economic interest and which, in respect of this service, receive government assistance in any form, including a subsidy, support or compensation, and which carry out various activities, shall keep administrative records such that:

a. the registration of the income and expenditure of the various activities is separated;

b. all income and expenditure is properly allocated in accordance with objectively justifiable principles of cost accounting;

c. the principles of cost accounting, on which the administration is based, are recorded clearly.

18.4.3 Railway Act 2003, (Spoorwegwet)[320]

Article 16
The Minister grants one or more concessions for the management of the main railway. The management includes taking care of:
a) the quality, reliability and availability of the infrastructure;
b) a fair, non-discriminatory distribution of the capacity of the infrastructure for both the manager of the rail and the rail companies;
c) managing the traffic on the infrastructure.

Article 17
2, The concession in each case … shall be linked to ensure;
c) the preparation of financial statements of performing the concession which is separate from accounting for other activities.

Table 227 EC Directive 2001/EC/12 compliance

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes (i)	'Undertakings, to which a special or exclusive right has been granted … or which … are entrusted with providing a service in the public economic interest and which, in respect of this service, receive government assistance in any form, including a subsidy, support or compensation, and which carry out various activities, shall keep administrative records such that: the registration of the income and expenditure of the various activities

[320]Spoorwegwet (Railway Act) 2003, http://ec.europa.eu/transport/rail/legislation/doc/nl-infra.pdf

			is separated…’ AND ‘The Minister grants one or more concessions for the management of the main railway.’
6.1(a)	Requirement to publish separated accounts	No	The legislation requires the ‘preparation’ of financial statements, but there is no mention of publishing them.
6.1	‘Public funds paid to one of these two areas of activity may not be transferred to the other.’	No	We were unable to identify legislation transposing this requirement.
6.1	‘The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.’	Yes	‘…the registration of the income and expenditure of the various activities is separated; all income and expenditure is properly allocated in accordance with objectively justifiable principles of cost accounting; the principles of cost accounting, on which the administration is based, are recorded clearly.’
6.2	‘Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.’	Yes	The infrastructure management functions of NS were separated in 2003 into two separate companies.
9.4	‘In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.’	Yes	We were unable to identify any explicit domestic legislation transposing this requirement. However, this requirement is implemented by the separation of passenger and freight services which predates the EC directive 2001/12/EC.
9.4(a)	Requirement to publish separated accounts	No	We were unable to identify any legislation reflecting this requirement.
9.4	‘Funds paid for the activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts.’	Yes	‘Undertakings, to which a special or exclusive right has been granted … or which … are entrusted with providing a service in the public economic interest and which, in respect of this service, receive government assistance in any form, including a subsidy, support

			or compensation, and which carry out various activities, shall keep administrative records such that: the registration of the income and expenditure of the various activities is separated…’ ‘2, The concession in each case … shall be linked to ensure; c) the preparation of financial statements of performing the concession which is separate from accounting for other activities.’
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other businesses.’	No (ii)	We were unable to identify any domestic legislation relating to this requirement.

18.4.4 Notes

(i) In the Netherlands the infrastructure manager has been separated from NS (who provide passenger activities.)

(ii) In the Netherlands only the infrastructure manager receives public funding, therefore, this requirement is rendered redundant.

18.4.5 In our opinion, the Dutch legislation does not appear to fully transpose the EU directives on accounting separation. Specifically;

- Article 6.1 – We have not been able to identify any legislation which prohibits the transfer of public funding between different activities.
- Article 9.4 – We have not been able to identify any legislation relating to the obligation for rail companies to produce separate accounts for rail freight activities. However, we note that the rail company has been separate since before the introduction of the directive, so this point is rendered redundant.
- Article 9.4 – We have been unable to locate legislation which prohibits the transfer of transport PSO funding. However, it should be noted that NS receives no public funding for the provision of PSO and so this point is rendered redundant.

18.4.6 We note that the current structure of the Dutch rail industry renders the points related to article 9.4 redundant. There has been structural separation of freight and passenger services since 2000 – predating 2001/12/EC – and separation of infrastructure management since 2003. Further, NS receives no funding for PSO. Therefore, in our opinion, despite the above points, there is little cause for concern regarding the structure of the Dutch railway industry.

18.4.7 We understand that it is the responsibility of the NMa to monitor compliance with accounting separation requirements.

18.5 Sources of Information

18.5.1 Dutch laws and regulations:

- *Spoorwegwet* – The Railway Act 2003
- *Beheerconcessie hoofdspoorweginfrastructuur* – Management Concession of the Main Railway, 2004

- *Vervoerconcessie voor het hoofdrailnet* – Transport Concession of the Main Rail Network, 2004
- *Competition Act 1997*

18.5.2 Annual accounts:

- ProRail B.V.Annual Reports (2005 – 2007).
- Railion Nederland N.V. Annual Reports (2005 – 2007)
- Nederlandse Spoorwegen NV Annual Reports (2004 – 2007)

18.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- ProRail website[321]
- Strukton website[322]
- NS website[323]
- NMa website[324]
- NMa Annual Bulletin 2008
- Meeting with the NMa on 15th January 2009

18.6 Nederlandse Spoorwegen NV (NS)

18.6.1 Nederlandse Spoorwegen NV (NS), the state owned passenger railway undertaking in the Netherlands, has a concession to operate as the sole passenger transport provider on the Dutch main rail network until 2015[325].

18.6.2 Formerly an integrated company, NS has operated independently from ProRail, the infrastructure manager, since 2003 and has not been active in the freight transport market since 2000, when NS Cargo, the freight subsidiary,_ separated to become part of Railion Nederland. Consequently, NS is legally separate to the freight and infrastructure companies in the Netherlands.

18.6.3 NS generates revenues from several different activities, separated into divisions under the group management.

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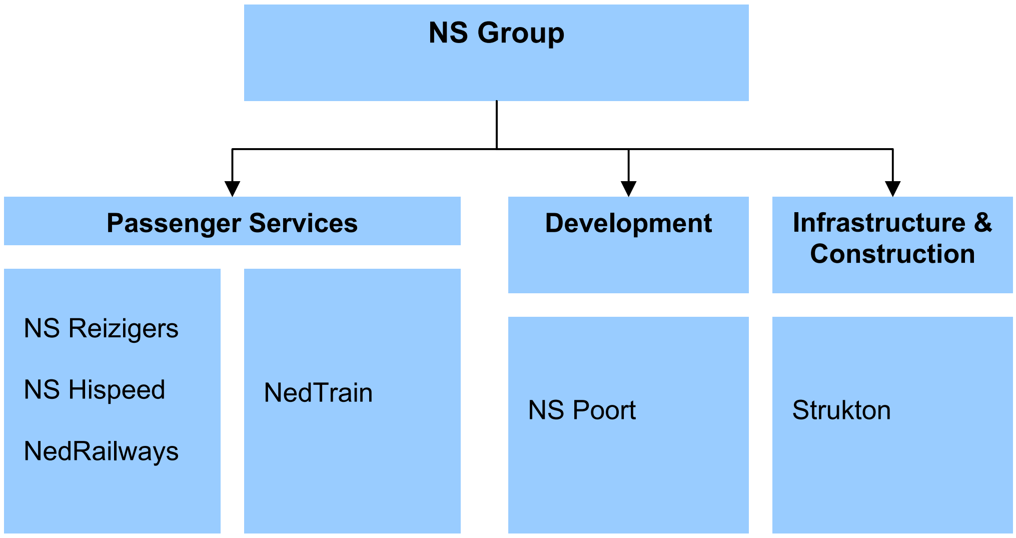
[321] www.prorail.nl
[322] www.strukton.nl
[323] www.ns.nl
[324] www.nmanet.nl
[325] Vervoerconcessie voor het hoofdrailnet, 2005, www.nmanet.nl

Figure 14: NS Group Structure[326]



18.6.4 As shown in Figure 14 the company is split into three primary segments; passenger, development and rail infrastructure and construction.

18.6.5 The passenger services division is responsible for all passenger transport and the services and sales which are associated with it. It is divided into:

- NS Reizigers; the primary provider of passenger services.
- NedTrain is the company responsible for the maintenance of rolling stock for the passenger carrier and several freight carriers.
- NS Hispeed provides high speed travel, both domestic and international.
- NedRailways is a joint venture with Serco in the UK and provides passenger rail services abroad.

18.6.6 Within Development, NS Poort manages and operates all Dutch stations and develops the land surrounding them.

18.6.7 NS is obliged to maintain and operate all retail properties and offices at stations, whilst Prorail is responsible for basic passenger infrastructure (platforms, escalators, lifts etc). Prorail outsources these activities to NS Poort.

18.6.8 Strukton is a construction and maintenance company. 41% of its €1.144 million revenues are generated from business with the rail industry.[327]

[326] NS 2007 Annual Report, p 1
[327] Key Figures, www.strukton.nl , Figures for 2007

18.6.9 Accounting Issues

Table 228 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the consolidated financial statements give an accurate picture of the size and composition of NV Nederlandse Spoorwegen on the 31st December 2007 and its results and cashflows for 2007.'[328] KPMG, 2007
Transparency	Good	There is a high level of disclosure of the different NS activities.
Visibility of transfers from/to other rail businesses	Partial	We note that there is little visibility of the transactions between Prorail and NS for NS Poort's activities at stations. Despite this, there is nothing to indicate that there are any issues relating to the visibility of transfers from other rail companies.
Visibility of intra-group transfers	Poor	There is no mention of transfers of funds between the passenger subsidiary and the other NS subsidiaries in the annual reports.

Table 229 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	ProRail and NS were separated in 2003 and publish separate accounts. These were obtained in the public domain.
6.1(a)	Requirement to publish separated accounts	Yes	The company's annual reports are available for download from the company's website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We have not encountered any evidence suggesting that public funds are being transferred from ProRail to NS. NS receives no public funding.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	The accounts are kept wholly separate and are highly detailed. NS receives no public funding.
6.2	'Member States may also provide that this separation shall require the organisation of	Yes	ProRail and NS were separated in 2003.

[328] 2007 NS Annual Report, Auditor's report, p 137

	distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.’		
9.4	‘In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.’	Yes	NS’s freight activities were separated in 2000 to become part of Railion.
9.4(a)	Requirement to publish separate accounts	Yes	NS’s freight activities were separated in 2000 to become part of Railion.
9.4	‘Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	Yes	NS does not receive funding for its passenger services.
9.4	‘…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	NS does not receive funding for its passenger services.

18.6.10 In our opinion, NS complies with the EC directives on accounting separation.

Table 230 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	2,949	3,487	3,846	4,040
Revenue from Passenger transport	2,413	2,048	2,430	2,413
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	1,024	1,107	1,121	1,211
Operating costs	2,805	3,195	3,536	3,685
Operating profit	144	292	310	355
Financial expenses	32	41	35	56
P&L on ordinary activities before tax	174	330	354	416
Total fixed assets	3,870	3,837	3,801	4,062
Long term receivables	0	0	0	0
Total current assets	2,351	2,493	3,313	3,482
Trade debtors	480	720	823	1,243
Other debtors	0	0	0	0
Current asset investments	1,455	1,355	1,882	1,815
Cash at bank and in hand	323	285	481	291
Creditors: <1yr (Current Liabilities)	1,030	1,162	1,905	2,130
Creditors: >1yr	1,283	1,197	1,099	1,054
Provisions for liabilities and charges	0	0	0	0
Equity	3,908	3,971	4,110	4,360
	No. / Km			
Average no. employees	24,794	23,626	24,961	26,004
Passenger-kilometres (m)	14,097	14,730	15,414	15,546
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

Table 231 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	2,949	3,487	3,846	4,040
Net profit (€m)	174	330	354	416
Operating profit (€m)	144	292	310	355
Total assets (€m)	6,221	6,330	7,114	7,544
Profitability				
Operating profit margin	5%	8%	8%	9%
Net margin	6%	9%	9%	10%
Return on assets	3%	5%	5%	6%
Return on equity	4%	8%	9%	10%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	0.8	0.7	0.8	0.9
Cost per staff member (€ '000)	113	135	142	142
Staff costs as a proportion of operating costs	37%	35%	32%	33%
Unit operating costs (€ '000)	199	217	229	237
Total Revenue per Passenger Km (€)	0.21	0.24	0.25	0.26
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	1,069	994	0	0
Debt / Total liabilities	46%	42%	0%	0%
Debt: Equity ratio	0.3	0.3	0.0	0.0
Quick ratio	2.2	2.0	1.7	1.6
Current ratio	2.3	2.1	1.7	1.6
Debt service coverage ratio	4.5	7.1	8.9	6.3
Public funding				
Total public income (€m)	0	0	0	0
Public funding / costs	0%	0%	0%	0%
Public funding / revenue	0%	0%	0%	0%

18.6.11 Between 2004 and 2007, NS was profitable. Both revenues and profits increased considerably year on year and, in 2007, profits had increased by almost 2.5 times since 2004. There is also an upward trend in the number of passenger kilometres undertaken.

18.7 DB Schenker Rail Nederland (formerly Railion Nederland)

18.7.1 Railion was formed in 2000 as the result of a merger between Deutsche Bahn Cargo and NS Cargo, the freight subsidiary of NS. The freight branch of DSB (the Danish rail company) then merged with Railion in 2001 becoming the largest rail freight company in Europe. Since December 2007, Railion has been known as DB Schenker.The Dutch subsidiary is now known as DB Schenker Rail Nederland.

Table 232 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements give a true and fair view of the financial position of Railion Nederland N.V. as at 31st December 2007, and of its results for the year then ended in accordance with Part 9 of Book 2 of the Netherlands Civil Code.' PriceWaterhouseCoopers 2008[329]
Transparency	Good	Railion Nederland only provides a freight service so there is not an issue of transparency between services and the accounts provide a good level of detail.
Visibility of transfers from/to other rail businesses	Partial	As the rail companies in the Netherlands are structurally separated, there are no transfers to NS. Railion Nederland's transactions with ProRail are not disclosed separately in the annual accounts.
Visibility of intra-group transfers	Partial	Since Railion Nederland is ultimately a subsidiary of Deutsche Bahn, there are, potentially, issues of transfers from other companies and services. The auditors in 2007 pointed out the poor performance of Railion Nederland in the past two years, saying that, '…the company is dependent on its parent company to continue financing anticipated negative cash flows…' [330] Further, Railion Nederland's largest investment during 2007 (€100m for 26 new locomotives) was financed by its parent company. Railion Nederland subsequently rents these from DB Logistics.[331]

Table 233 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	Railion Nederland only provides freight services.
6.1(a)	Requirement to publish separated accounts	Yes	Railion Nederland only provides freight services.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	Railion Nederland only provides freight services.

329 2007 Accounts, Railion Nederland, Auditors Report, p 30
330 Ibid
331 Ibid, p 4

6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	Railion Nederland only provides freight services.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	Railion Nederland only provides freight services.
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	Railion Nederland publishes wholly separate accounts to those of NS, ProRail and its parent company, Deutsche Bahn.
9.4(a)	Requirement to publish separate accounts	No	When originally researching (in 2008) we were able to download the 2007 Railion Nederland company accounts. However, DB Schenker Rail Nederland does not now provide accounts for download on its website.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	Railion Nederland does not receive public funding.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	Railion Nederland does not receive public funding.

18.7.2 In our opinion, DB Schenker Rail Nederland is not wholly compliant with the accounting separation directives. However, this only extends to the failure to publish its accounts which no longer appear to be available for download from the company website.

Table 234 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	169	167	169	169
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	158	164	165	160
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	66	67	59	61
Operating costs	175	177	166	172
Operating profit	-5	-10	3	-3
Financial expenses	1	1	1	1
P&L on ordinary activities before tax	-7	-12	2	-4
Total fixed assets	70	30	29	27
Long term receivables	0	0	0	0
Total current assets	70	60	58	55
Trade debtors	45	39	32	30
Other debtors	14	13	16	18
Current asset investments	0	0	0	0
Cash at bank and in hand	8	5	10	4
Creditors: <1yr (Current Liabilities)	67	70	69	73
Creditors: >1yr	22	20	16	13
Provisions for liabilities and charges	6	6	6	4
Equity	12	6	-6	-4
	No. / Km			
Average no. employees	1,299	1,205	1,114	1,121
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	29,098	29,100	31,100	31,900
Managed kilometres	0	0	0	0

Table 235 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	169	167	169	169
Net profit (€m)	-7	-12	2	-4
Operating profit (€m)	-5	-10	3	-3
Total assets (€m)	140	90	87	82
Profitability				
Operating profit margin	-3%	-6%	2%	-2%
Net margin	-4%	-7%	1%	-3%
Return on assets	-5%	-13%	2%	-5%
Return on equity	-53%	-198%	-27%	106%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	0.5	0.5	0.5	0.5
Cost per staff member (€ '000)	134	147	149	153
Staff costs as a proportion of operating costs	38%	38%	35%	35%
Unit operating costs (€ '000)	6	6	5	5
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	0.01	0.01	0.01	0.01
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	0	0	0	0
Debt / Total liabilities	0%	0%	0%	0%
Debt: Equity ratio	0.0	0.0	0.0	0.0
Quick ratio	1.0	0.8	0.8	0.7
Current ratio	1.0	0.9	0.8	0.7
Debt service coverage ratio	-4.6	-6.9	2.5	-3.2
Public funding				
Total public income (€m)	0	0	0	0
Public funding / costs	0%	0%	0%	0%
Public funding / revenue	0%	0%	0%	0%

18.7.3 Railion Nederland has generated losses for three of the four years being examined. The revenues and costs have remained relatively constant throughout this period apart from in 2006, when the costs fell by around 6% (leading to a profit) before increasing the following year by around 4%.

18.7.4 The quick and current ratios have fallen each year from 2004 to 2007 indicating potential liquidity issues. This issue was reflected in the auditor's report (see Table 232.)

18.7.5 In the 2007 accounts, it is commented that 'The negative trend in results in 2007 and the expected loss for 2008 have weakened the financial position of Railion Nederland NV … Financing of the operational deficits and restructuring costs will be provided under the existing credit agreements. The current credit facility is sufficient to cover these costs.'[332]

18.7.6 Further, according to the accounts and the auditors' report, 'The company depends on the ongoing financial support to be provided by its parent company, Deutsche Bahn. Financing arrangement are currently being negotiated but have not yet been completed. This indicates the existence of a material uncertainty which may cast significant doubt about the company's ability to continue as a going concern.'[333]

18.8 ProRail

18.8.1 Until 2003, two main 'task organisations' were responsible for the railway infrastructure. Railinfrabeheer was responsible for maintenance and construction and Railned allocated capacity. Both these companies were part of the NS Group, though they were commissioned and worked on behalf of the Ministry of Transport.

18.8.2 When the Railway Act was introduced in 2003, Railinfrabeheer, the railway management and Railned were legally separated, becoming a new entity called Prorail; an independent organisation with the Dutch state as the sole shareholder.[334]

18.8.3 ProRail has a concession to manage the infrastructure for the majority of the Dutch railway network. This was set out by the Spoorwegwet (Railway Act, 2003) which states;

Article 16
The Minister grants one or more concessions for the management of the main railway. The management includes taking care of:
a. the quality, reliability and availability of the infrastructure;
b. a fair, non-discriminatory distribution of the capacity of the infrastructure for both the manager of the rail and the rail companies;
c. managing the traffic on the infrastructure.

18.8.4 This concession is further detailed in Beheerconcessie hoofdspoorweginfrastructuur (the management concession of the main railway).[335]

18.8.5 The majority of ProRail's revenues are from government subsidy. In 2007, total income from access charges was only 25% of the total income from subsidy.[336]

18.8.6 ProRail also owns, and is obliged to maintain, the basic passenger facilities at stations. ProRail outsources all maintenance and construction work. Much of this is outsourced to NS.

[332] Railion Nederland Annual Report 2007, p 8
[333] Ibid, p 9
[334] ProRail website, http://www.prorail.nl, (January 2009).
[335] Beheerconcessie hoofdspoorweginfrastructuur, 2005, www.nmanet.nl
[336] ProRail Annual Report 2007, p 24

Table 236 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements give a true view of the size and composition of ProRail's equity on December 31st 2007 and that the revenue of 2007 is consistent with Title 9 Book 2 of the Netherlands Civil Code.' Ernst & Young 2008
Transparency	Good	ProRail's accounts show a good level of detail.
Visibility of transfers from/to other rail businesses	Good	There is no visibility of Prorail's transactions with NS relating to its transactions for maintenance at stations. Despite this, we found no cause for concern regarding the visibility of transfers from/to other rail businesses.
Visibility of intra-group transfers	N/A	ProRail is a state owned company solely providing infrastructure manager services.

Table 237 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	ProRail has been separate from NS since 2003 and produces wholly separate accounts.
6.1(a)	Requirement to publish separated accounts	Yes	Prorail accounts are published and are available for download from the company's website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We have not encountered any evidence suggesting that public funds are being transferred from ProRail to NS. NS receives no public funding.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by Prorail. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	ProRail and NS were legally separated in 2003.
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	ProRail does not provide freight services.
9.4(a)	Requirement to publish separate accounts	Yes	ProRail does not provide freight services.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown	Yes	ProRail does not provide passenger services.

	separately in the relevant accounts…'		
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	ProRail does not provide passenger services and, as NS does not receive PSO funds for passenger services, there are no transfers of PSO funds to ProRail.

18.8.7 In our opinion, ProRail complies with the EC directives on accounting separation. However, there are some concerns surrounding how adequate the statutory accounts are in relation to detecting illegal cross subsidisation.

18.8.8 Public Funding

Table 238 Public funding from accounts

Year	2004		2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
Operations	**912**	**Operating grant [337](from P&L)**	**947**	**Operating grant (from P&L)**	**982**	**Operating grant (from P&L)**	**783**	**Operating grant (from P&L)**
Investment grants	**464**	**Investment grant[338]**	**529**	**Investment grant**	**743**	**Investment grant**	**792**	**Investment grant**
Total	**1,376**		**1,476**		**1,725**		**1,580**	

Table 239 Public funding from all sources

Year	Amount (€m)	Type	Source
2004	947	Operating and investment subsidies	ProRail Beheerplan 2005
2005	930	Operating and investment subsidies	ProRail Beheerplan 2006
2006	1,233	Operating and investment subsidies	ProRail Beheerplan 2007
2007	1,097	Operating and investment subsidies	ProRail Beheerplan 2008

18.8.9 These figures (in Table 239) are taken from the management plans (Beheerplan) from 2005 to 2008. Each year, a management plan is produced and submitted to the Ministry of Transport and Water Management requesting a specific amount of public funding for the coming year. These plans include actual figures for public funding received during the previous year.

18.8.10 These figures clearly show some significant differences. However, we note that there are many reasons why these may not reconcile so, in our opinion, this does not necessarily raise concerns.

[337] Operating grants for each year are visible in the p&l of the ProRail annual reports.
[338] Investment grants for each year are visible in the cashflow statements of the ProRail annual reports.

Table 240 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	1,129	1,197	1,260	1,601
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	124	165	195	207
Total subsidisation	912	947	982	783
Wages, Salaries, Social Security Payments	135	138	134	151
Operating costs	1,009	1,088	1,139	1,503
Operating profit	120	109	121	98
Financial expenses	97	102	90	68
P&L on ordinary activities before tax	23	7	31	30
Total fixed assets	535	8,433	12,045	17,219
Long term receivables	0	0	0	0
Total current assets	535	797	1,079	974
Trade debtors	37	45	63	50
Other debtors	114	74	52	96
Current asset investments	0	0	0	0
Cash at bank and in hand	368	574	931	796
Creditors: <1yr (Current Liabilities)	372	413	132	82
Creditors: >1yr	3,390	3,251	12,686	13,079
Provisions for liabilities and charges	113	119	165	175
Equity	5	105	141	4,857
	No. / Km			
Average no. employees	2,652	2,559	2,508	2,747
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	6,563	6,589	6,517	6,830

Table 241: Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	1,129	1,197	1,260	1,601
Net profit (€m)	23	7	31	30
Operating profit (€m)	120	109	121	98
Total assets (€m)	1,070	9,230	13,124	18,193
Profitability				
Operating profit margin	11%	9%	10%	6%
Net margin	2%	1%	2%	2%
Return on assets	2%	0%	0%	0%
Return on equity	460%	7%	22%	1%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	3.8	3.5	11.4	8.9
Cost per staff member (€ '000)	380	425	454	547
Staff costs as a proportion of operating costs	13%	13%	12%	10%
Unit operating costs (€ '000)	154	165	175	220
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	0.17	0.18	0.19	0.23
Indebtedness				
Total debt of the company (€m)	0	0	0	0
Debt / Total liabilities	0%	0%	0%	0%
Debt: Equity ratio	0.0	0.0	0.0	0.0
Quick ratio	1.4	1.7	7.9	11.5
Current ratio	1.4	1.9	8.2	11.9
Debt service coverage ratio	1.2	1.1	1.3	1.4
Public funding				
Total public income (€m)	912	947	982	783
Public funding / costs	90%	87%	86%	52%
Public funding / revenue	81%	79%	78%	49%

18.8.11 Between 2004 and 2006, the revenues (and operating profits) of ProRail fell steadily. There was a significant increase in 2007, although this was concurrent with a large increase in costs.

18.8.12 A large proportion of ProRail's income is from public funding, although this proportion fell significantly between 2006 and 2007, as a result of a change in accounting practice in 2007.

18.9 Conclusions

18.9.1 Based on the evidence available, we can conclude that:

- There appear to be some points of the directive missing from the transposed national law. This is, however, of little concern as the structure of the Dutch railway industry is compliant with the requirements of the directives and this largely predates their introduction.
- NS does not receive PSO funding for the provision of public transport although it does have a concession to operate as the sole provider of passenger transport on the main railway system until 2015. Its accounts are compliant with the requirements of the EC directives.
- Railion Nederland's and, subsequently, DB Schenker Rail Nederland's accounts are reflective of the requirements of the directives. However, DB Schenker Rail Nederland's apparent failure to publish their accounts means that the company is not wholly compliant.
- Prorail's accounts are fully reflective of the requirements of the EC directives.
- We have very few concerns about the Dutch railways system's compliance with the requirements and principles of the EC directives.

19 NORWAY

19.1 Industry Structure

19.1.1 The original state-owned national railway company, NSB, has been split into an infrastructure company (Jernbaneverket), a freight operator (CargoNet AS), and a passenger operator (NSB).

19.2 List of Railway Undertakings

Passenger	Freight	Infrastructure Manager
NSB* Flytoget Ofotbanen	CargoNet AS* Ofotbanen Peterson Rail	Jernbaneverket*

*Companies with Norwegian revenues greater than €50m which will be studied in depth.

19.3 Industry Regulator & Government Departments

- Regulatory Authorities
  - o The Norwegian National Rail Administration
    www.jernbaneverket.no
  - o The National Railway Inspectorate
    www.jernbanetilsynet.no
  - o Ministry of Transport and Communications
    www.regjeringen.no/en/dep/

19.4 Legal Framework

19.4.1 Regulations on licensing, safety certification and access to the national railway network, and on safety authorisation to operate railway infrastructure 2007

1.3.1 **Section 3-2** Infrastructure managers shall prepare a business plan which includes their investment and financing programmes. Such plans shall be designed with a view to ensuring optimal, effective and efficient use and development of the infrastructure and shall at the same time ensure financial equilibrium and include the funds needed to achieve these objectives. The ministry may issue further guidelines for the preparation of such plans. In order to accommodate the obligations set forth in Directive 2001/14/EC, the ministry may by regulations or individual decision impose special conditions for private undertakings which operate infrastructure forming part of the national railway network

1.3.2 **Section 3-3** In the case of integrated companies, separate profit and loss accounts and balance sheets shall be kept and published, on the one hand for activity connected with the railway undertaking's provision of transport services and on the other for activity connected with the management of the railway infrastructure. Any public support paid to one of these areas of activity may not be transferred to the other. The accounts for the two areas of activity shall be in a form reflecting this prohibition

1.3.3 **Section 3-4** A railway undertaking shall enter into necessary contracts on the basis of public or private law with the infrastructure manager of the railway infrastructure that is utilised. The conditions for such agreements shall ensure transparency and access in a non-discriminatory manner, in accordance with the Allocation Regulations

1.3.4 We have not presented a table of transposition as Norway is not required to transpose EC directives into national legislation.

19.5 Norwegian National Railway (NSB)

19.5.1 On 1 July 2002, NSB BA became a private limited company as a result of special legislation passed on 1 December 1996, when the Norwegian National Rail Administration and NSB were demerged. NSB is wholly owned by the Norwegian government.

19.5.2 Accounting Issues

Table 242 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements give a true and fair view of the financial position of NSB. as at 31st December 2007..' PriceWaterhouseCoopers 2008[339]
Transparency	Good	The accounts provide a reasonable amount of detail
Visibility of transfers from/to other rail businesses	Poor	There is little visibility of payments or receipts from other rail businesses
Visibility of intergroup transfers	Partial	There is some disclosure of intergroup transactions, but not in detail.

[339] 2007 Accounts, Railion Nederland, Auditors Report, p 30

1.3.5 Performance

Table 243 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	0	466	480	506
Revenue from Passenger transport	0	440	465	487
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	0	139	144	165
Operating costs	0	428	444	477
Operating profit	0	38	36	29
Financial expenses	0	0	0	0
P&L on ordinary activities before tax	0	82	102	41
Total fixed assets	0	850	868	920
Long term receivables	0	437	401	427
Total current assets	0	91	143	145
Trade debtors	0	6	4	6
Other debtors	0	31	8	5
Current asset investments	0	25	48	89
Cash at bank and in hand	0	5	66	30
Creditors: <1yr (Current Liabilities)	0	157	227	205
Creditors: >1yr	0	362	307	397
Provisions for liabilities and charges	0	0	0	0
Equity	0	858	879	890
	No. / Km			
Average no. employees	0	2,889	2,774	2,682
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

Table 244 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	0	466	480	506
Net profit (€m)	0	82	102	41
Operating profit (€m)	0	38	36	29
Total assets (€m)	0	1,377	1,413	1,492
Profitability				
Operating profit margin	-	8%	7%	6%
Net margin	-	18%	21%	8%
Return on assets	-	6%	7%	3%
Return on equity	-	10%	12%	5%
Viability ratio	-	1	1	1
Efficiency				
Liabilities / operating costs	-	1.2	1.2	1.3
Cost per staff member (€ '000)	-	148	160	178
Staff costs as a proportion of operating costs	-	33%	32%	35%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	0	309	330	369
Debt / Total liabilities	-	59%	62%	61%
Debt: Equity ratio	-	0.4	0.4	0.4
Quick ratio	-	0.4	0.6	0.6
Current ratio	-	0.6	0.6	0.7
Debt service coverage ratio	-	-	-	-
Public funding				
Total public income (€m)	0	0	0	0
Public funding / costs	-	0%	0%	0%
Public funding / revenue	-	0%	0%	0%

19.6 CargoNet

19.6.1 CargoNet AS is part of the CargoNet Group, owned by NSB AS, Norway(55%), and the Swedish rail company Green Cargo AB (45%).

19.6.2 We have not been able to obtain accounts for Cargo Net AS.

19.7 Flytoget

19.7.1 Flytoget is active in passenger transport only. The company runs trains between Oslo Airport and Oslo. The infrastructure is managed by Jernbaneverket.

19.8 Jernbaneverket

19.8.1 Jernbaneeverket was .established in 1996, when the Norwegian State Railways (NSB) was divided into train operating company NSB BA, and an infrastructure manager, Jernbaneeverket. Jernbaneeverket is an administrative agency responsible for operation and maintenance of and investment in railway infrastructure. Also responsible for rail traffic control, distribution of track capacity and collection of track access charges [340]

19.8.2 The majority of Jernbaneeverket's revenues are from government subsidy. In 2007, total income from grants makes up 85% of income.

19.8.3 Accounting Issues

We have not yet obtained annual accounts for Jernbaneeverket.

19.9 Conclusions

19.9.1 Norway is not compliant with the requirements of the accounting separation directives. However, as they are a non-EU nation, there is no requirement for them to transpose the Directive 2001/12, nor is there a requirement for their rail companies to comply with it.

[340] ProRail website www.jernbaneverket.no, (January 2009).

20 POLAND

20.1 Industry overview

20.1.1 The main provider of rail services in Poland is the PKP Group, which was formed in 2001 as a result of the restructuring of the state-owned Polish State Railways (PKP S.A).

20.1.2 PKP Group receives a large amount of financial support from local and national government as a result of public service contracts. In 2007 PKP Group provided 80.8% of total rail passenger transport and 62.6% of rail freight transport in Poland.[1]

20.1.3 The industry is regulated by the rail department of the Ministry of Transport, Urząd Transprtu Kolejowego (UTK). The UTK can impose financial penalties of up to 2% of the annual income of the offender. The Ministry of Infrastructure, Ministerstwo Infratruktury (MI) regulates the rail infrastructure managers.[2]

20.2 List of Licensed Railway Undertakings[341]

Passenger	Freight	Infrastructure Manager
PKP Przewozy Regionalne Sp. z o.o.	PKP CARGO S.A.	PKP Polskie Linie Kolejowe S.A
PKP INTERCITY Sp. z o.o.	CTL Train Sp. z o.o.	PCC Slakie Linie Kolezowe SP. Z.o.o.
PKP Warszawska Kolej Dojazdowa Sp. z o.o.	Maczki Bór S.A.	PKP Linia Hutnicza Szerokotorowa (PKP LHS) Sp. z o.o.
Arriva PCC Sp. Z. o. o.	PCC Rail Holding S.A..	PKP SKM w Trójmieście Sp. z o.o.
PKP SKM w Trójmieście Sp. z o.o.	PTK Holding S.A.	PTK Infrastructure
Szybka Kolej Miejska Sp. z o.o.	PKP Linia Hutnicza Szerokotorowa (PKP LHS) Sp. z o.o.	
“Koleje Mazowieckie – KM” Sp. z o.o.	Lotos Kolej Sp. z o.o.	
	Pol – Miedź - Trans Sp. z o.o.	
	PKN ORLEN S.A.	
	Rail Polska Sp. z o.o.	
	PPUH Kolex Sp. z o.o.	
	Nadwiślański Zakład Transportu Kolejowego Sp. z o.o.	
	Lubelski Węgiel Bogdanka S.A.	
	Przedsiębiorstwo Robót Kolejowych i Inżynieryjnych S.A.	
	Transoda Sp. z o.o.	
	Kolej Bałtycka S.A.	
	Kopalnia Piasku „Kotlarnia” S.A.	
	Zakłady Inżynierii Kolejowej S.J.	
	PCC RAIL SZCZAKOWA” S.A.	

[341] European Railway Agency, www.era.europa.eu

Passenger	Freight	Infrastructure Manager
	Przedsiębiorstwo Usług Kolejowych KOLPREM Sp. z o.o. Euronaft Trzebinia Sp. z o.o ORLEN KolTrans Sp.zo.o. GATX RAIL POLAND Sp. z o.o. CTL Rail Sp. z o.o. Przedsiębiorstwo Robót Komunikacyjnych S.A. Przedsiębiorstwo Kompleksowej Obsługi Bocznic Kolejowych„PETKOL” S.A. PCC Kolchem Sp. z o.o. Przedsiębiorstwo Komunikacji Samochodowej Zielona Góra Sp. z o.o RCO S.A. “Koleje Mazowieckie – KM” Sp. z o.o. Przedsiębiorstwo Transportu Kolejowego “KOLTAR” Sp. z o.o. X Train Sp. z o.o. Pomorskie Przedsiębiorstwo Mechaniczno – Torowe Sp z o.o. STK Sp. z o.o. Przedsiębiorstwo Utrzymania Infrastruktury Kolejowejw Katowicach Sp. z o.o. CTL Express Sp. z o.o. CTL Reggio Sp. z o.o. Freightliner PL Sp. z o.o. CEMET S.A. Hagans Logistics Sp. z o.o Polzug Intermodal Polska Sp. z o.o.	

20.3 Industry Regulator & Government Departments

20.3.1 Government departments

- Ministry of Infrastructure
    - Ministerstwo Infratruktury[5]
- Ministry of Finance
    - Ministerstwo Finansów [6]

20.3.2 Industry regulators:

- Urząd Transprtu Kolejowego (UTK)
- Ministry of Infrastructure – for infrastructure managers.

20.4 Legal Framework

20.4.1 The Polish rail industry is governed by the Rail Transport Act of 28th March 2003.[342,343] English translations of the relevant articles are provided in the following paragraphs.

Article 5.1

2. The infrastructure manager, hereinafter called "the manager", manages the railway infrastructure and ensures its development and modernization.
3. The manager is not entitled to perform railway transportation, excluding technological transports for his own needs, with the reservation of Paragraph 4.
4. The President of the Office for Railway Transport, after obtaining the opinion of the
President of the Office for Competition and Consumer Protection may, by means of a decision, permit the manager to
    1) perform passenger transportation provided that separate accounting of the performance of railway infrastructure and railway transport;
    2) perform passenger and goods transport on an organizationally separated railway line without the requirement to run separate accounting, referred to in sub-paragraph 1, provided that this line is not made available to railway undertakings

Article 37

1. Managers and railway undertakings run their financial economy on principles provided for in separate regulations, with consideration of provisions of this chapter.
2. The managers shall separate, within the confines of their accounting:
    1) a record of costs borne associated with realising the tasks referred to in Article 39 (1) and Article 40 (1), as well as a record of income referred to in Article 40 (1);
    2) a record of railway line costs, subdivided into construction, maintenance, train traffic performance and line administration costs.

Article 39

1. Railway undertakings performing passenger transport on the territory of the State receive objective subsidy from the national budget in order to compensate income lost due to valid statutory tariff reductions in national passenger transport.
2. The amount of subsidy referred to in Paragraph 1 is specified in the budget act.

Article 40

1. Organising and subsidising regional railway passenger transport services performed on the basis of the public services provision contract and acquiring rail vehicles is the responsibility of the regional government.
4. The regional government and the railway carrier chosen for providing public services, in a manner according to regulations issued on the basis of paragraph 7, shall be obliged to conclude the framework public services provision contract for a period not shorter than three years, within 3 months from the date the carrier was chosen.

342 www.infor.pl
343 http://www.lexadin.nl/wlg/legis/nofr/eur/lxwepol.htm

5. A railway carrier conducting other activities aside from transport services performed on the basis of a public services provision contract shall be obliged to:

1) keep separate accounting for transport services performed on the basis of the public services provision contract;

2) not to assign public resources for any other activities than services performed on the basis of public services provision contract.[344]

Article 40a

1. Railway passenger transport services performed on interregional connections with domestic services, where seats are not reserved, shall be subsidized as public services from the state budget. Railway passenger transport services performed on interregional connections with domestic services, where seats are reserved, may be subsidized as public services from the state budget. These services may be subsidized also from regional income of regions[345]
2. Passenger services within international connections on The Republic of Poland territory can also be subsidised from state budgets.

Table 245 EC Directive 2001/EC/12 compliance

Article	Issue	Transposition	Polish law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	The President of the Office for Railway Transport, after obtaining the opinion of the President of the Office for Competition and Consumer Protection may, by means of a decision, permit the manager to: 1) perform passenger transportation provided that separate accounting of the performance of railway infrastructure and railway transport
6.1(a)	Requirement to publish separated accounts	No	We were unable to identify legislation requiring the publishing of separated accounts.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	A railway carrier conducting other activities aside from transport services performed on the basis of a public services provision contract shall be obliged: 1) to keep separate accounting for transport services performed on the basis of the public services provision contract; 2) not to assign public resources for any other activities than services performed on the basis of public services provision contract.

[344] Article 5 from Act of 16th December 2005 amending the Railway Transport Act.
[345] *Source: European Commission, 2009*

Article	Issue	Transposition	Polish law
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Separate accounting for railway infrastructure and transport services is required. However, there is no specification for how detailed the separate accounts have to be or how they are obliged to show transfers of public funds.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	'The infrastructure manager, hereinafter called "the manager", manages the railway infrastructure and ensures its development and modernization. 'The manager is not entitled to perform railway transportation, excluding technological transports for his own needs, with the exception of Paragraph 4.' Paragraph 4 specifies the need for accounting separation for integrated infrastructure managers and transport providers.
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	No	No legislative provision found.
9.4(a)	Requirement to publish separate accounts	No	We were unable to identify legislation requiring the publishing of separated accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	A railway carrier conducting other activities aside from transport services performed on the basis of a public services provision contract shall be obliged: 1) to keep separate accounting for transport services performed on the basis of the public services provision contract;
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	The same railway carrier shall be obliged: 2) not to assign public resources for any other activities than services performed on the basis of public services provision contract.

20.4.2 In our opinion, Poland has not fully transposed the requirements of the directives into national legislation. Specifically:

- Article 6.1 – We were unable to identify any legislation reflecting the requirement to publish separated accounts or the way in which accounts are kept.
- Article 9.4 – We were unable to identify legislation relating to the requirement to publish separate accounts for freight operations.

20.5 Sources of Information

20.5.1 Polish laws and regulations:

- Act of 28th March 2003 on Rail Transport346 and ACT of 16th December 2005 amending the Railway Transport Act[347]

20.5.2 Annual accounts

- PKP Holding, (2005 – 2007)
- PKP Polskie Linie Kolejowe (2005-2007)
- PKP Cargo 2007

20.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007

20.6 PKP Group

20.6.1 PKP Group was formed in 2001 as the result of the restructuring of the State- Owned Enterprise Polskie Koleje Pańistwowe (Polish State Railways). In 2007, the Group comprised the 10 companies included in the consolidated financial statements. These included: [348]

- PKP SA, the Parent company;
- PKP CARGO SA, the Group's cargo subsidiary;
- PKP Linia Hutnicza Szerokotorowa Sp. z.o.o, (PKP LHS SA) cargo subsidiary which also manages around 400km of infrastructure;
- PKP Przewozy Regionalne Sp. z.o.o., a regional passenger transport subsidiary;
- PKP Intercity SA, the Group's intercity passenger transport subsidiary
- PKP Szybka Kolej Miejska w Trójmiescie Sp. z.o.o., (PKP SKM SA) another passenger transport company which manages its own infrastructure; and
- PKP Polskie Linie Kolejowe SA (PKP PLK SA), the infrastructure manager
- PKP Energetyka Sp. z o.o.
- PKP Informatyka Sp. z o.o.
- Telekomunikacja Kolejowa Sp. z o.o.
- PKP Warszawska Kolej Dojazdowa Sp. z o.o.

[346] www.infor.pl
[347] www.infor.pl
[348] PKP website, www.pkp.pl, February 2009

20.6.2 The primary object of activity of the companies covered by consolidation is the domestic and international transport of passengers and things, providing services related to transport, forwarding services in the passenger and cargo transport, management and maintenance of the railway lines, power engineering activities, telecommunication and IT activities and investment activity.

20.6.3 The Parent company, PKP SA, administers the railway assets, including the development, rental, lease and sale of residential and non-residential real estate. It also conducts geodetic and cartographic activities, as well as investment activities. According to the Group's annual report, the Parent continued with the financial and asset restructuring of the Group during 2007. The companies of PKP Group have been "gradually equipped with assets, and their share capital was systematically increased as the companies were bringing in kind [positive] contributions." ([…] added.)

20.6.4 PKP Polskie Linie Kolejowe is the infrastructure managing division of the PKP Group. The core duties of the Company are providing carriers with access to the railway lines, the modernization of the railway lines to conform to the EU standards, the preparation of railway timetables, the operation of traffic on the railway lines, maintaining railway infrastructure in a condition ensuring safe operation of railway traffic, utilizing the premises of railway lines for commercial purposes. Access to the rail infrastructure is provided on the basis of contracts for the use of the awarded train routes which are concluded with the licensed rail carriers. In 2007 the railway lines managed by PKP Polskie Linie Kolejowe S.A. were used by 46 carriers, including 8 carriers from the PKP Group and 38 others.

20.6.5 Our review of the PKP Group annual report is presented in Table 246 below.

Table 246 Accounting Issues

Issue	Quality	Comment
Audit Assurance	None	There are no audit reports provided by PKP in the public domain
Transparency	Good	PKP Group annual reports include P&L statements on a consolidated basis for the Group, for the Parent company and for each of the Group's other operating subsidiaries. Reconciliations are provided between the consolidated accounts and the totality of the accounts of the individual operating subsidiaries. A summary of revenue sources is also provided for each subsidiary. Separate annual reports are available for the individual operating subsidiaries. However, they do not appear to report information on financial performance. While there is some information about assets and liabilities, balance sheets are not provided on any of these bases in the Group annual report.
Visibility of transfers	Partial	Details of transfers between the different operating subsidiaries are provided in respect of, for example, rail

from/to other rail businesses		infrastructure access charges, the lease/rental of rolling stock. The individual report for PKP Intercity (contained in the Group report) noted that Intercity's contractors remained other companies of the PKP Group and that costs incurred on their behalf amounted to 64% of total operating costs. However, cash flow statements are not provided.
Visibility of intra-group transfers	Partial	To the extent that transactions between the different rail businesses that form the PKP Group, intra-group transfers are likewise visible. However, cashflow statements are not provided.

20.6.6 Our review of PKP's compliance with the requirements of Directive 2001/12/EC is provided in Table 247 below.

Table 247 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	No	The annual report presents P&L statements for (i) the Group on a consolidated basis, (ii) the Parent company and (iii) each of the other operating subsidiaries that form the Group. However, while there is some information about assets and liabilities, balance sheets are not provided on any of these bases in the Group annual report.
6.1(a)	Requirement to publish separated accounts	No	The PKP Group Annual Reports are published on the company website, however, balance sheets are not provided in the published accounts.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	There is a table within the Group's Annual Report which provides details of where the public funding came from and which subsidiary it went to. There is also a good level of detail to the use of public funding. No evidence of inappropriate transfers was found. But separate cash flow statements are not published by the company.

6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by PKP Group. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	The PKP Group consists of 10 legally separate subsidiaries, including the parent company and 9 operating companies. In April 2007, the Council of Ministers accepted "The Strategy for the rail transport until 2013". It describes the long term restructuring and specific objectives of the PKP Group. PKP Przewozy Regionalne was municipalised in December 2008 and it is planned that PKP Intercity S.A. and PKP CARGO S.A. are privatised, together with securing finance to increase investment in the rail network.
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	No	Separate P&Ls are produced for the company's rail freight businesses, however, there are no balance sheets available.
9.4(a)	Requirement to publish separate accounts	Yes	The separate P&Ls are published in the group accounts which are available for download from the company's website.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	There is a table within the Group's Annual Report which provides details of where the public funding came from and which subsidiary it went to. The reports for the operating subsidiaries also included details of the sources and use of public funds received. There is no breakdown of the amount of public funding for public services by contract.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other	Yes	No evidence of inappropriate transfers was found. But cash flow statements are not published by PKP.

	business.'		

20.6.7 In our opinion, PKP Group is not wholly compliant with accounting separation requirements. Specifically;

- Article 6.1 – Separate balance sheets are not produced for all transport and infrastructure businesses. There are only P&Ls produced for each subsidiary company.
- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.
- Article 9.4 – Separate balance sheets are not produced for freight operations – only separate P&Ls are available.
- Article 9.4 – There is no detail of the amoung of PSO funding received broken down by contract.

20.6.8 Whilst there is no evidence to suggest that there are illegal funding transfers occurring between the PKP subsidiaries, there is a general lack of detail in the accounts and, therefore, it is difficult to draw a definitive conclusion. Certainly, the failure to produce and publish cash flow statements and balance sheets suggests that the accounting separation process is not complete.

20.6.9 Details of the public funding made available to PKP are provided in Table 248 below.

Table 248 Public Funding[349]

Subsidiary	Type of support	2006 (€)	2007 (€)
Przewozy Regionalne	Subject Related Subsidy	62,921,521	66,190,729
	Local Government Funds	126,575,237	144,546,350
	Support for international services	56,130,743	43,552,291
	payment of overdue statutory red, by the RF	28,537,126	35,036,644
	Total	274,164,627	289,326,014
Intercity	Subject Related Subsidy	11,004,953	12,233,095
	Support for international services	2,710,724	3,574,621
	payment of overdue statutory red, by the RF	3,020,472	3,708,455
	Total	16,736,149	19,516,172
SKM	Subject Related Subsidy	3,876,284	4,157,786
	Local Government Funds	2,196,304	3,320,775
	payment of overdue statutory red, by the RF	1,103,276	1,354,573
	Total	7,175,865	8,833,134
WKD	Subject Related Subsidy	717,957	488,380
	Local Government Funds	772,440	696,360
	payment of overdue statutory red, by the RF	230,007	282,417
	Total	1,720,404	1,467,158
Total Subsidy to transport activities	Subject Related Subsidy	78,520,715	83,069,991
	Local Government Funds	129,543,981	148,563,485
	Support for international services	58,841,467	47,126,912
	payment of overdue statutory red, by the RF	32,890,881	40,382,089
	Total	299,797,044	319,142,478

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20.6.10 In what follows, we provide data that will serve to illustrate the operational and financial performance of the PKP Group. Time and information constraints have prevented us from presenting this data for every year across the 2004 to 2007 time period for the study. Instead, we have presented the consolidated results for 2007 alongside the results for the parent company and the key rail operating subsidiaries.

20.6.11 Summary operational and financial data for 2007 is shown in Table 249 below. Note that there are significant information gaps in the PKP Group's annual reports. A corresponding set of financial ratios is presented in Table 250.

Table 249: Summary operational and financial data for the PKP Group

Company Type	Holding Co.	Passenger transport		Integrated infrastructure and passenger service	Domestic and int'l freight transport and handling	Integrated infrastucture and freight transport	Infrastructure
Summary financial data	**PKP SA**	**PKP Intercity**	**PKP Regional**	**PKP SKM**	**PKP Cargo**	**PKP LHS**	**PKP Polskie Linie Kolejowe SA**
Metric							
Total revenue	255.44	236.60	600.79	26.18	1,272.84	71.42	772.98
Revenue from Passenger transport							
Revenues from Freight transport							
Revenue from infrastructure charges							572.01
Total subsidisation	11.92	16.33	242.01	7.39			1.64
Wages, Salaries, Social Security Payments							
Operating costs	243.18	225.98	588.80	26.00	1,274.63	60.18	787.17
Operating profit	12.26	10.63	11.98	0.18	(1.79)	11.24	(14.18)
Financial expenses	6.51	0.03	5.22	0.27	7.74	0.87	(6.60)
P&L on ordinary activities before tax	18.77	10.60	6.76	0.45	5.96	12.11	(20.79)
Total fixed assets		223.99		28.11			3,746.22
Long term receivables							
Total current assets							
Trade debtors							
Other debtors							
Current asset investments							
Cash at bank and in hand							
Creditors: <1yr (Current Liabilities)	208.70						
Creditors: >1yr	1,056.13						
Provisions for liabilities and charges							
Equity							
Average no. employees	3,243	2,516	16,471	869	44,070	1,237	42,234
Passenger-kilometres (m)		3,897	13,080	750			
Tonne-kilometres (m)					40,700		
Managed kilometres							27,580

Table 250: Financial ratios for the PKP Group, the Parent company and the main PKP operating subsidiaries

Financial indicators							
Metric	**Holding Co.**	**Passenger transport**		**Integrated infrastructure and passenger service**	**Domestic and int'l freight transport and handling**	**Integrated infrastucture and freight transport**	**Infrastructure**
Performance							
Revenues (€m)	255.44	236.60	600.79	26.18	1,272.84	71.42	772.98
Net profit (€m)	62.78	45.17	30.44	0.45	5.96	42.32	93.68
Operating profit (€m)	12.26	10.63	11.98	0.18	(1.79)	11.24	(14.18)
Total assets (€m)							
Profitability							
Operating profit margin	4.8%	4.5%	2.0%	0.7%	(0.1%)	15.7%	(1.8%)
Net margin	24.6%	19.1%	5.1%	1.7%	0.5%	59.3%	12.1%
Return on assets							
Return on equity							
Viability ratio	1.05	1.05	1.02	1.01	1.00	1.19	0.98
Efficiency							
Liabilities / operating costs	5.20						
Cost per staff member (€ m)	0.07	0.09	0.04	0.03	0.03	0.05	0.02
Staff costs as a proportion of operating costs							
Unit operating costs (€ '000)		12.08			0.03		3.45
Total Revenue per Passenger Km (€)		0.06	0.05	0.03			
Total Revenue per Freight Km (€)					0.03		
Total revenue per managed km (€m)							3.39
Indebtedness							
Total debt of the company (€m)							
Debt / Total liabilities							
Debt: Equity ratio							
Quick ratio							
Current ratio							
Debt service coverage ratio	0.56	0.10	0.38	0.02	0.00	0.00	(0.03)
Public funding							
Total public income (€m)	11.92	16.33	242.01	7.39	0	0	1.64
Public funding / costs	4.90%	7.22%	41.10%	28.42%			1.64%
Public funding / revenue	4.66%	6.90%	40.28%	28.23%			21.00%

20.6.12 The above tables do not show a full set of ratios or financial information due to the fact that the PKP accounts do not include balance sheets for the individual businesses. What is clear is that the company's freight activities are by far the largest revenue generator, although PKP Cargo made a small operating loss in 2007. The only other subsidiary which generated an operating loss is the infrastructure manager PLK, whose operating margin was -1.8%. It is worth noting that some 41% of the PKP Regional passenger company's revenues are state subsidies.

20.7 PCC Rail Group

20.7.1 PCC Rail is a freight and infrastructure company owned by the German company PCC AG. It is the second largest private carrier of goods by rail in Poland. In 2007, it acquired the Polish company PTKiGK S.A., having bought 100% of the shares in COALTRAN Sp. Z.o.o.

20.7.2 The activities provided by PCC Rail are:

Company/Business unit	Activity
PCC Cargo GmbH	Freight transport
PCC Cargo S.A.	Freight forwarding and handling.
PCC Intermodal S.A.	Freight handling.
PCC Kolchem Sp. Z o. o.	Transport of containers to ports and of hazardous materials.
PCC Rail COALTRAN Sp. Z.o.o.	Coal transport
PCC SPEDKOL Sp. Z.o.o.	Freight forwarding and transport of chemicals.
PCC Slaskie Linie Kolejowe Sp. Zo.o.	Infrastructure management
PCC Tabor Szczakowa Sp. Z.o.o.	Repairs of rolling stock.
PTKiGK S.A.	Freight transport
Energoport Sp. Z.o.o.	Transport of materials for energy companies
PTK Infrastrucktura S.A.	Infrastructure management
PTK Tabkol S.A.	Repairs of rolling stock.
Trans Pak Sp. Z.o.o.	Freight transport
Zos PTK Sp. Z.o.o.	Rolling stock leasing.

20.7.3 Presented below is the table of compliance with EC accounting separation directives for PCC Rail.

Table 251 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	No	In the published group accounts, separate accounts are not provided for the infrastructure business division of PCC.
6.1(a)	Requirement to publish separated accounts	No	Although the group accounts are available on the company website, they do not include separated balance sheets and P&Ls for the individual companies and activities.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We have not encountered any evidence of cross subsidisation between infrastructure and transport activities. It is not clear whether PCC receives any public funding at all.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	No separate accounting is published for the different business divisions of the group.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	The infrastructure division is operated as a separate subsidiary of PCC Rail.
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and	No	There are no separate accounts for freight and infrastructure activities.

	published for businesses relating to the provision of rail freight transport services.’		
9.4(a)	Requirement to publish separate accounts	No	Although the group accounts are available on the company website, they do not include separated balance sheets and P&Ls for the individual companies and activities.
9.4	‘Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	Yes	PCC Group does not receive PSO funding for passenger activities.
9.4	‘…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	PCC Group does not receive PSO funding for passenger activities.

20.7.4 In our opinion, PCC Rail is not in compliance with the requirements of the accounting separation directives. Specifically:

- Article 6.1 – Separate accounts are not published for the infrastructure activities of the group. Hence the accounts do not reflect the directives in terms of the prohibition on the transfer of public funds. Despite this, it is not clear whether the infrastructure activities of the company are funded by the state.
- Article 9.4 – Separate accounts are not published for the freight activities of the group.

20.8 Conclusions

20.8.1 From the information available, we can conclude that:

- The directives have not been fully transposed into the national legislation. We were unable to identify any legislation relating to the requirement to publish the separated transport and infrastructure accounts and nothing relating to the requirement to separate accounts for freight activities.
- PKP Group does not appear to comply with the requirements of the directives as separate balance sheets are not produced for the individual businesses and there is no detailed breakdown of PSO funding received from the state or local authorities. Whilst there is no evidence to suggest that there are illegal funding transfers occurring between the PKP subsidiaries, there is a general lack of detail in the accounts and, therefore, it is difficult to draw a definitive conclusion. Certainly, the failure to produce and publish cash flow statements and balance sheets suggests that the accounting separation process is not complete.
- PCC Group does not comply with the requirements of the accounting separation directives.

21 PORTUGAL

21.1 Industry Overview

21.1.1 Portugal began restructuring its rail sector as early as 1997. The ownership of the rail infrastructure and rail operations was separated by Railway Act 104/97. *Rede Ferroviária Nacional (REFER)* became responsible for infrastructure management, while *Caminhos de Ferro Portugueses EP (CP)* was given responsibility for rail freight and rail passenger transport services.

21.1.2 Decreto-Lei n° 148/2007 was issued in Portugal on 27 April 2007 and came into force on 1 May 2007. The law was introduced to merge all of the Portuguese transport authorities under the umbrella of the newly formed *Instituto de Mobilidade & Transportes Terrestres (IMTT)*. The IMTT took over the responsibilities of the Instituto Nacional do Transporte Ferroviário (INTF), the former Portuguese railway authority.

21.1.3 In partnership with the existing railway operators, CP and Fertagus, the regulator defines access rights, approves access charges, grants operating licences, and regulates railway activities taking into account development, safety, quality and the environment.

21.1.4 Rail transport has traditionally played a subordinate role in Portugal and over the past few years has become ever more insignificant. The share of freight carried by rail dropped from 6.8 per cent in 1995 to 5.3 per cent in 2005. Rail passenger transport suffered an even stronger decline, from 8.3 per cent of all passenger traffic in 1995 to 4.5 per cent in 2004.

21.1.5 CP still has monopoly status in the rail freight sector. In rail passenger transport, there are still only two operators in the market, the incumbent CP and the private company Fertagus. The latter won the only tender procedure ever to be held in Portugal.

21.2 List of Railway Undertakings

Passenger	Freight	Infrastructure Manager
CP* FERTAGUS	CP*	REFER*

*Companies with revenues greater than €50m which will be studied in depth.

21.3 Industry Regulator & Government Departments

21.3.1 Regulatory Authority – IMTT[350]

Instituto da Mobilidade e dos Transportes Terrestres, I.P., or "IMTT" is the central administrative body responsible for the co-ordination of inland transport. It is an independent entity, endowed with administrative and financial autonomy and jurisdiction over the national territory. This organisation has responsibility for both the economic and technical regulation of the rail sector.

IMTT's role includes regulating, supervising, coordinating and planning inland transport. IMTT is also responsible for supervising and regulating the activities of

[350] See www.imtt.pt

those who operate within this sector, as well as promoting safety and quality standards and protecting consumer rights.

21.3.2 Ministry of Public Works, Transportation and Housing – State Secretariat for Transportation[351]

The ministry's functions include developing the legal and regulatory framework for transport activities.

21.4 Legal Framework

21.4.1 Translation of relevant parts of the law[352]:

Decreto-Lei nº 104/97 de 29 de Abril de 1997 (Article 1 & 2)[353]:

"By this Act Refer is created (…) The main object of Refer is to manage the national infrastructure, a task assigned to it by this Act. (…)"

Decreto-Lei nº 270/2003 de 28 de Outubro de 2003 (Article 1)[354].

"The directives number 2001/12/CE, 2001/13/CE and 2001/14/CE, from 26th February, all from the Parliament and the Council, which is usually called "railway package I", and of which the approval has represented a landmark in the development of a community policy for the railway sector and of which the current "decreto-lei" goes in the direction of introducing market mechanisms in the traditionally closed sector of railway transport.

The solutions considered by those directives propose the vertical separation between the railway infrastructure management activity and the railway transport operation, stressing the need to ensure the financial balance of the infrastructure manager. It also considered the concession of the rights to the European railway firms to access the networks of the different member states in specific cases, the adoption of general common criteria to access the railway transport activity, together with the creation of a uniform model of European licensing, with the aim of mutually recognising the railway transport firms and of advertisement by infra-structure management of these characteristics to the operators, namely the capacity offered, the conditions associated with that offer and the price."

Decreto-Lei nº 231/2007 de 14 de Junho de 2007 (Article 63)[355].

"(…) determines the accounting separation between the public service activity of management of infrastructure and the other activities of a manager of infrastructure (…)"

21.4.2 In the table below we indicate how the relevant articles of the underlying EU directive have been transposed with reference to the above legislation.

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351 See http://www.moptc.pt/
352 Please note that the translations in this section are unofficial
353 http://dre.pt/pdf1sdip/1997/04/099A00/19321943.pdf
354 http://www.iapmei.pt/iapmei-leg-03.php?lei=2235
355 http://www.intf.pt/Uploads/%7B06F5DF11-81DB-45A8-A46E-1FEF96C2A57F%7D.pdf

Table 252 Transposition of Directive 2001/12/EC

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are **kept** (emphasis added)…, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	No (i)	We have been unable to identify legislation relating to this point.
6.1(a)	Requirement to publish separated accounts	No (i)	We have been unable to identify legislation relating to this point.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	No	We have been unable to identify legislation relating to this point.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	We have been unable to identify legislation relating to this point.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	"By this Act Refer is created (…) The main object of Refer is to manage the national infrastructure, a task assigned to it by this Act. (…)" *(Article 1 & 2, Decreto-Lei nº 104/97)*
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be **kept** (emphasis added)… and published for businesses relating to the provision of rail freight transport services.'	No	We have been unable to identify legislation relating to this point.
9.4(a)	Requirement to publish separated accounts	No (i)	We have been unable to identify legislation relating to this point.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No (ii)	We have been unable to identify legislation relating to this point.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	No	We have been unable to identify legislation relating to this point.

Notes:

(i) The legislation does not specify that separate profit and loss accounts and balance sheets should be kept and published. It refers to the vertical separation of activities into two separate companies, which effectively implies that separate profit and loss accounts will be kept and published.

(ii) The law does appear to refer to the need for separate accounting of public service activities from other activities of an infrastructure manager. However, public service activities would normally be expected to be carried out by a rail transport operator.

21.4.3 Portugal does not appear to fully comply with the Directive. It has legally separated rail infrastructure management and rail transport services, but it does not explicitly require separate balance sheets and P&L accounts for these activities to be kept and published. There is also no requirement for horizontal accounting separation, nor is any reference made to the prohibition on the transfer of public funding.

21.4.4 IIt is unclear from the legislation who is responsible for overseeing its implementation. There is no reference to a regulator or other body who will perform this function.

21.5 Sources of Information

21.5.1 Laws and regulations:

- Decreto-Lei nº 270/2003 de 28 de Outubro de 2003.

  (http://www.iapmei.pt/iapmei-leg-03.php?lei=2235)

- Decreto-Lei nº 231/2007 de 14 de Junho de 2007

  (http://www.intf.pt/Uploads/%7B06F5DF11-81DB-45A8-A46E-1FEF96C2A57F%7D.pdf)

21.5.2 Annual accounts / public funding:

- CP financial statements 2004-2007

  Obtained from: www.cp.pt

- REFER financial statements 2004-2007

  Obtained from: www.refer.pt

21.6 Caminhos de Ferro Portugueses (CP)

21.6.1 Caminhos de Ferro Portugueses, or CP, was set up as a state-owned enterprise in 1975 to manage the railways in Portugal. All of the company's share capital remains in the hands of the State.

21.6.2 Changes in domestic and EC legislation led to rail transport services and infrastructure management being legally and structurally separated in 1997. CP continues to provide rail transport services, while REFER now manages the rail infrastructure and a rail regulator, the IMTT, oversees the sector.

21.6.3 CP is currently organised into the following business units:

- Freight transport – CP Carga
- Urban services – CP Lisboa; CP Porto
- Long-distance services – CP Longo Curso; CP Regional
- High Speed – CP Alta Velocidade

21.6.4 In 2007, CP carried 134.74 million passengers and 10.55 million tonnes of freight over the 2,830 kilometres of the Portuguese rail network. The urban services offered by CP are particularly significant and transport 86% of all rail passengers.

21.6.5 Quality of financial statements

Table 253 Quality of financial statements

Issue	Quality	Comment
Audit Assurance	Good	"In our opinion, the consolidated financial statements give an accurate picture of the size and composition of CP – Caminhos de Ferro Portugueses, on the 31st December 2007 and its results and cash flows for 2007.'[356] KPMG, 2007
Transparency	Good	The financial statements are drawn up in accordance with Portuguese accounting standards.
Visibility of transfers from/to other rail businesses	Good	Track access charge payments to the infrastructure manager (REFER) are disclosed.
Visibility of intra-group transfers	N/A	Not part of a group

21.6.6 Compliance with Directive

Table 254 Compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	CP and Refer are legally separate and publish separate accounts which include profit & loss accounts and balance sheets.
6.1(a)	Requirement to publish separated accounts.	Yes	These are available for download on their websites.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	CP pays track-access charges to Refer. If these charges do not reflect costs, this would provide an opportunity for cross-subsidisation. It is not possible to determine whether this is the case from the reviewing the accounts. Hence, we did not encounter any evidence suggesting that the transfer of public funding is occurring.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Portugal and this data is not produced by CP. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	Refer and CP are separate companies providing infrastructure management and train services respectively.

[356] 2007 CP Balanco contas, Auditor's report, p. 72

9.4	Separate P&L and balance sheets kept and published for freight operations.	No	CP has separate cargo and passenger transport divisions, but there is no accounting separation between them.
9.4(a)	Requirement to publish separated accounts.	No	Separate accounts are not published.
9.4	Funds for PSO transport activities shown separately in accounts	No	Data on public funding is provided in the accounts, but it is not clear how much corresponds to PSOs.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Portugal. Hence, we did not encounter any evidence suggesting that PSO funds are being illegally transferred.

21.6.7 Public funding

Table 255 Public Funding

Year	2004		2005		2006		2007	
Type	Amount	Use of funds	Amount	Use of funds	Amount	Use of funds	Amount	Use of funds
Public Service Obligation (PSO) Compensation								
Loans								
Equity								
Grants	€21.3m €16.0m €19.6m €0.5m €0.5m	Operational Subsidies (Portuguese government) PIDDAC investment subsidies (Portuguese government) FEDER investment subsidies (EU) Other investment subsidies Other subsidies	€25.0m €15.8m €3.8m €0.5	Operational Subsidies (Portuguese government) PIDDAC investment subsidies (Portuguese government) FEDER investment subsidies (EU) Other subsidies	€26.7m €4.2m €30.2m €0.4m	Operational Subsidies (Portuguese government) PIDDAC investment subsidies (Portuguese government) FEDER investment subsidies (EU) Other subsidies	€28.6m €5.3m €6.9m €0.4m	Operational Subsidies (Portuguese government) PIDDAC investment subsidies (Portuguese government) FEDER investment subsidies (EU) Other subsidies
Debt Write-offs								
Other								

Source: CP annual financial statements

21.6.8 Performance

As CP does not separate its accounts between its freight and passenger operations, we have only been able to present its aggregate operational and financial performance.

Table 256 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	273.2	287.6	302.0	325.0
Passenger revenue	161.9	176.2	194.9	204.7
Freight revenue	65.9	65.5	65.8	69.0
Total subsidisation	21.3	25.0	26.7	28.6
Wages, Salaries, Social Security Payments	161.9	149.7	140.4	133.7
Operating costs	426.7	422.5	416.6	431.0
Operating profit	(153.5)	(135.0)	(114.6)	(106.0)
Financial expenses	67.1	76.0	96.6	100.6
P&L on ordinary activities before tax	(221.9)	(211.0)	(212.2)	(206.6)
Total fixed assets	1,344.7	1,314.2	1,274.3	1,222.1
Long term receivables	-	-	-	-
Total current assets	101.8	99.2	68.6	76.2
Trade debtors	-	-	-	-
Other debtors	-	-	-	-
Current asset investments	-	-	-	-
Cash at bank and in hand	3.5	3.4	7.0	9.7
Creditors: <1yr (Current Liabilities)	299.4	411.0	464.7	461.9
Creditors: >1yr	2,131.1	2,167.1	2,210.7	2,350.1
Provisions for liabilities and charges	59.6	58.5	53.2	50.9
Equity	(1,239.0)	(1,444.6)	(1,638.1)	(1,823.1)
	No. / Km			
Average no. employees	4,747	4,459	4,223	4,223
Passenger-kilometres (m.)	3,415	3,412	3,514	3,610
Tonne-kilometres (m.)	2,281	2,422	2,430	2,586

Source: CP's financial statements

Table 257 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	273	288	302	325
Net profit (€m.)	(222)	(211)	(212)	(207)
Operating profit (€m.)	(154)	(135)	(115)	(106)
Total assets (€m.)	1,446	1,413	1,343	1,298
Profitability				
Operating profit margin	-56.2%	-46.9%	-37.9%	-32.6%
Net margin	-81.2%	-73.4%	-70.3%	-63.6%
Return on assets	-15.3%	-14.9%	-15.8%	-15.9%
Return on equity	-17.9%	-14.6%	-13.0%	-11.3%
Viability ratio	0.6	0.7	0.7	0.8
Efficiency				
Liabilities / operating costs	5.8	6.2	6.5	6.6
Cost per staff member (€ '000)	89.9	94.8	98.7	102.0
Staff costs as a proportion of operating costs	37.9%	35.4%	33.7%	31.0%
Unit operating costs (€'000)	-	-	-	-
Total Revenue per Passenger Km (€)	0.05	0.05	0.06	0.06
Total Revenue per Freight Km (€)	0.03	0.03	0.03	0.03
Indebtedness				
Total debt of the company (€m.)	2,344	2,484	2,591	2,733
Debt / Total liabilities (%)	94.1%	94.2%	95.0%	95.5%
Debt: Equity ratio	(1.9)	(1.7)	(1.6)	(1.5)
Quick ratio	0.01	0.01	0.02	0.02
Current ratio	0.3	0.2	0.1	0.2
Debt service coverage ratio	(2.3)	(1.8)	(1.2)	(1.1)
Public funding				
Total public income (€m.)	21.3	25.0	26.7	28.6
Public funding / costs	5.0%	5.9%	6.4%	6.6%
Public funding / revenue	7.8%	8.7%	8.8%	8.8%

Source: CP's financial statements, Frontier analysis

21.6.9 Total revenues have increased by about 19% over the period. Passenger rail services represented about two-thirds of total revenues in 2007, while revenues from freight rail service represented only about 20% and public funding was a mere 9%. However, the company has been operating with substantial operating and net losses although these have declined over the period. Operating costs fell in 2005 but then increased and there was also a significant increase in financial costs. Costs per staff member have been increasing steadily, while staff costs as a proportion of total operating costs have steadily declined as the number of personnel has fallen.

21.6.10 The company's debts are high and have been increasing and it has negative equity, presumably due to consistently making losses. This means that the debt-equity ratio has been negative throughout the period. The current and quick ratio are both fairly close to zero suggesting that the company would have great difficulty meeting its short-term liabilities.

21.7 REFER

21.7.1 Following the government Decree Nº. 104/97, Rede Ferroviária Nacional, E.P.E. (or REFER), was legally incorporated on 29 April 1997. The company is responsible for managing the infrastructure of the Portuguese railway system. It reports directly to the Ministry of Finance and to the State Secretariat for Transportation (part of the Ministry of Public Works, Transportation and Housing).

21.7.2 REFER has responsibility for constructing, conserving and maintaining the rail infrastructure and managing network capacity. The high-level objectives of the company are to provide the market with a competitive, efficient, safe and environmentally sound rail network.

21.7.3 Quality of financial statements

Table 258 Quality of financial statements

Issue	Quality	Comment
Audit Assurance	Good	"In our opinion, the consolidated financial statements give an accurate picture of the size and composition of Red Ferroviaria Nacional - REFER, on the 31st December 2007 and its results and cash flows for 2007.'[357] PWC, 2007
Transparency	Good	The financial statements are drawn up in accordance with Portuguese accounting standards / IFRS.
Visibility of transfers from/to other rail businesses	Good	Track access charges received are disclosed.
Visibility of intra-group transfers	N/A	Not part of a group

21.7.4 Compliance with Directive

Table 259 Compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	CP and REFER are legally separate and publish separate accounts which include profit & loss accounts and balance sheets.
6.1(a)	Requirement to publish separated accounts.	Yes	These are available for download on their websites.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	Track-access charges are paid to REFER by CP. If these charges do not reflect costs, this would provide an opportunity for cross-subsidisation. It is not possible to determine whether this is the case from the reviewing the accounts. Hence, we did not encounter any

[357] 2007 REFER Balanco contas, Auditor's report, p. 147

			evidence suggesting that the transfer of public funding is occurring.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for the accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Spain and is not provided by REFER. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	REFER and CP are separate companies providing infrastructure management and train services respectively.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	REFER is an infrastructure manager and does not provide rail freight services.
9.4(a)	Requirement to publish separated accounts.	Yes	REFER is an infrastructure manager and does not provide rail freight services.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	REFER is an infrastructure manager and does not provide PSO transport activities.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	REFER is an infrastructure manager and does not provide PSO transport activities.

21.7.5 Public Funding

Table 260 Public Funding

Year	2004		2005		2006		2007	
Type	Amount	Use of funds	Amount	Use of funds	Amount	Use of funds	Amount	Use of funds
Public Service Obligation (PSO) Compensation								
Loans								
Equity								
Grants	€28.4m €20.7m €1.5m	Operating subsidies (Portuguese government) PIDDAC Investment subsidies from (Portuguese government) FEDER/IOT	€27.1m €18.0m €20.3m	Operating subsidies (Portuguese government) PIDDAC Investment subsidies from (Portuguese government) FEDER/IOT	€29m €4.5m €27.1m	Operating subsidies (Portuguese government) PIDDAC Investment subsidies from (Portuguese government) FEDER/IOT	€31.0m €5.0m €49.9m	Operating subsidies (Portuguese government) PIDDAC Investment subsidies from (Portuguese government) FEDER/IOT Investment

	€1.7m €71.4m	Investment subsidies (EU) DGTREN Investment subsidies (EU) COHESION FUND investment subsidies (EU)	€0.5m €116.9m	Investment subsidies (EU) DGTREN Investment subsidies (EU) COHESION FUND investment subsidies (EU)	€46.2m	Investment subsidies (EU) COHESION FUND investment subsidies (EU	€2.8m €83.9m €15.0	subsidies (EU) DGVII Investment subsidies (EU) COHESION FUND investment subsidies (EU) OTHERS
Debt Write-offs								
Other								

Source: REFER financial statements

21.7.6 Performance

Table 261 Summary Financial Data [358]

Summary financial data	**2004**	**2005**	**2006**	**2007**
Metric		**Million Euros**		
Total revenue	-	-	136.3	115.7
Revenue from infrastructure charges	-	-	88.2	73.1
Total subsidisation	-	-	29.0	31.0
Wages, Salaries, Social Security Payments	-	-	93.1	85.6
Operating costs	-	-	238.0	212.8
Operating profit	-	-	(101.7)	(97.1)
Financial expenses	-	-	195.0	223.7
P&L on ordinary activities before tax	-	-	(162.0)	(162.7)
Total fixed assets	-	-	1,139.2	892.4
Long term receivables	-	-	54.5	39.5
Total current assets	-	-	260.5	171.1
Trade debtors	-	-	149.6	122.3
Other debtors	-	-	1.5	1.0
Current asset investments	-	-	79.3	35.1
Cash at bank and in hand	-	-	16.0	0.2
Creditors: <1yr (Current Liabilities)	-	-	386.0	721.3
Creditors: >1yr	-	-	1,600.0	1,600.0
Provisions for liabilities and charges	-	-	23.5	11.0
Equity	-	-	811.0	973.8
		No. / Km		
Average no. employees	-	-	3,135	3,579
Managed Kilometres (m.)	2,849	2,839	2,839	2,842

Source: REFER's financial statements

Note: Data is provided from 2006 onwards, as from that year on the financial statements were produced in line with IFRS and therefore data from previous years is not comparable.

Table 262 Summary Financial Data

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	-	-	136	116
Net profit (€m.)	-	-	(162)	(163)
Operating profit (€m.)	-	-	(102)	(97)
Total assets (€m.)	-	-	2,593	1,995
Profitability				
Operating profit margin	-	-	-74.6%	-83.9%
Net margin	-	-	-118.8%	-140.7%
Return on assets	-	-	-6.2%	-8.2%
Return on equity	-	-	-20.0%	-16.7%
Viability ratio	-	-	0.57	0.54
Efficiency				
Liabilities / operating costs	-	-	8.4	11.0
Cost per staff member (€ '000)	-	-	0.08	0.06
Staff costs as a proportion of operating costs	-	-	39.1%	40.2%
Unit operating costs (€ '000)	-	-	83.8	74.9
Total Revenue per managed km (€)	-	-	0.03	0.03
Indebtedness				
Total debt of the company (€m.)	-	-	1,777.16	2,081.61
Debt / Total liabilities	-	-	88.4%	89.3%
Debt: Equity ratio	-	-	2.19	2.14
Quick ratio	-	-	0.64	0.22
Current ratio	-	-	0.67	0.24
Debt service coverage ratio	-	-	(0.52)	(0.43)
Public funding				
Total public income (€m.)	-	-	29	31
Public funding / costs	-	-	12.2%	14.6%
Public funding / revenue	-	-	21.3%	26.8%

Source: REFER's financial statements, Frontier analysis

Note: Data is provided from 2006 onwards, as from that year on the financial statements were produced in line with IFRS and therefore data from previous years is not comparable.

21.7.7 REFER saw a 15 per cent fall in revenues between 2006 and 2007, which is largely attributable to the fall in revenues from infrastructure charges. Public funding represents 27% of revenues in 2007. The company was loss-making on both an operational and net level in both years and these losses have persisted even as revenue has declined, hence the operating and net margin and return on assets are increasingly negative. Although operating costs have fallen slightly, financial expenses have increased as has the total amount of debt. The number of employees has increased over the period, although staff costs have remained about 40% of total operating costs.

21.7.8 The company has high levels of debt and a gearing level just above 2. Both the current ratio and the quick ratio declined to around 0.2 in 2007, implying that the company would have difficulty meeting its short-term liabilities.

21.8 Conclusion

21.8.1 Based on the information available, we can conclude the following.

(iii) At a national level, there is complete legal separation of rail infrastructure, which is managed by REFER and rail services, which are operated by CP.

- The sector is regulated by IMTT (Instituto da Mobilidade e dos Transportes Terrestres).

- We have obtained fairly detailed data on the amount, sources and uses of public funding from the companies' financial statements and from their responses to our questionnaires.
- The Directive does not appear to have been transposed into Portugese law yet and we have not been able to determine why this is.
- The accounts produced are compliant with Portugese accounting standards, however the level of disclosure of inter-company transactions is insufficient to be able to determine whether public funds have been transferred between the infrastructure manager and rail operator.
- All train operating companies pay track and infrastructure access charges to the infrastructure manager and it is not possible to tell whether these reflect the underlying costs and therefore are economically justifiable.
- Both companies have been consistently loss making and appear to have poor liquidity and high levels of debt. In addition, CP has negative equity, implying that the company has consistently made losses over a long time period.

22 ROMANIA

22.1 Industry overview

22.1.1 Despite the fact that Romania did not join the EU until January 2007, it underwent structural reform of its rail sector as early as 1998. As a result of Ordinance 12/1998, the state owned monopoly SNCFR was split into five separate companies with three of them providing infrastructure, freight and passenger services separately.

22.1.2 Since both passenger and freight markets have been opened to competition, there have been numerous new entrants, though CFR Calatori and Marfa both have by far the largest shares of their respective markets.

22.1.3 The Railway Supervision Council is a part of the Romanian Ministry of Transport and acts as the country's regulatory authority. It is entitled to impose fines, though there are no provisions for ordering coercive measures.[359]

22.2 List of Licensed Railway Undertakings[360]

Passenger	Freight	Infrastructure Manager
Societatea Nationala De Transport Feroviar De Calatori "Cfr Calatori" S.A.* Societatea Feroviara De Turism "S.F.T.-C.F.R." S.A. S.C. Transferoviar Grup S.A. S.C. Servtrans Invest S.A. S.C. Regional S.R.L. S.C. Dori Trans S.R.L.	Logistic Services Danubius S.C. C.F. 33 Icim Arad S.A. S.C. Classfer S.R.L. S.C. Compania De Transport Feroviar Bucuresti S.A. S.C. Constantin Grup S.R.L. S.C. Crimbo Gas Giurgiu Filiala Giurgiu S.R.L. S.C. Dori Trans S.R.L. S.C. Grup Feroviar Roman S.A. S.C. Kairos S.R.L. S.C. Rail International S.A. S.C. Rc - Cf Trans S.R.L. S.C. Romania Euroest S.A. S.C. Rompetrol Logistics S.R.L. S.C. Servtrans Invest S.A. S.C. Softrans S.R.L. S.C. Trans Expedition Feroviar S.R.L. S.C. Transblue S.R.L. S.C. Transcombi S.A. S.C. Transferoviar Grup S.A. S.C. Transferoviaria S.A. S.C. Unifertrans S.A. S.C. Via Terra Spedition S.R.L. Societatea Nationala De Transport Feroviar De Marfa "Cfr-Marfa" S.A.*	Societatea Nationala De Transport Feroviar*

*Companies with revenues greater than €50m which will be studied in depth.

22.3 Industry Regulator & Government Department

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[359] IBM Global Business Services, Rail Liberalisation Index 2007, p 185
[360] European Railway Agency, www.era.europa.eu

- Regulatory Authorities
  - Railway Supervision Council (Part of Ministry of Transport)[361]
- Ministry of Transport
  - Ministerul Transporturilor Si Infrastructurii[362]
- Ministry of Finance
  - Ministerul Finantelor Publice[363]

22.4 Legal Framework

22.4.1 Emergency Ordinance No. 12/1998; Transport on Railways and the reorganization of the Romanian National Company of Romanian Railways.[364]

22.4.2 Domestic legislation reorganising the state owned incumbent rail operator into separate companies for the operation of transport and infrastructure and introducing competition into the rail freight market. This was officially implemented into national law by Government Decision 584/1998.

Article 9, Paragraph 1
Administration of infrastructure, public property or private property of the State shall be operated by a national company resulting from the reorganisation of the National Company of Romanian Railways and is awarded a concession, without paying a fee, to operate the public railway infrastructure and own the assets and other elements of infrastructure taken over from the National Society of Romanian Railways…

Article 47
(1) National Society of Romanian Railways (CFR) is reorganised as follows:
a) National Railways (CFR) – with status of a company with the objective of infrastructure management.
b) National Society of Rail Freight (CFR Marfa) – with the status of a company for the rail transport of goods.
c) National Rail Passengers (CFR Calatori) – with the status of a company mainly for the rail transport of passengers.
d) The Railway Assets Administration (SAAF) – with the status of a company primarily for the management of surplus assets resulting from the division of the National Society of Romanian Railways.
e) Society of Railway Management Services (CMS) – with the status of a company mainly for the provision of financial services and accounting, administration of foreign loans and providing legal services

Article 49
The national companies referred to in Art. 47 operate under the Ministry of Transport, Constructions and Tourism, by decision of the government…

Table 263 EC Directive 2001/EC/12 transposition

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand,	Yes	(1) National Society of Romanian Railways (CFR) is reorganised as follows: a) National Railways (CFR) – with status of a company with the

[361] www.mt.ro
[362] www.mt.ro
[363] www.mfinante.ro
[364] http://www.csf.mt.ro/legislatie/oug%2012_1998.pdf

	for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'		objective of infrastructure management. b) National Society of Rail Freight (CFR Marfa) – with the status of a company for the rail transport of goods. c) National Rail Passengers (CFR Calatori) – with the status of a company mainly for the rail transport of passengers. As separate companies have been established, these are required to publish separate accounts.
6.1(a)	Requirement to publish separated accounts	No	We were unable to identify any legislation relating to this point of the directive.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	No	We were unable to locate any domestic legislation relating to this requirement of the directive.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	We were unable to locate any domestic legislation relating to this requirement of the directive.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	(1) National Society of Romanian Railways (CFR) is reorganised as follows: a) National Railways (CFR) – with status of a company with the objective of infrastructure management. b) National Society of Rail Freight (CFR Marfa) – with the status of a company for the rail transport of goods. c) National Rail Passengers (CFR Calatori) – with the status of a company mainly for the rail transport of passengers.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	(1) National Society of Romanian Railways (CFR) is reorganised as follows: a) National Railways (CFR) – with status of a company with the objective of infrastructure management. b) National Society of Rail Freight (CFR Marfa) – with the status of a company for the rail transport of goods. c) National Rail Passengers (CFR Calatori) – with the status of a company mainly for the rail transport of passengers.
9.4(a)	Requirement to publish separated accounts	No	We were unable to identify any legislation relating to this point of the directive.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	We were unable to locate any domestic legislation relating to this requirement of the directive.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	No	We were unable to locate any domestic legislation relating to this requirement of the directive.

22.4.3 In our opinion, though passenger, freight and infrastructure operations have been separated, the requirements of the EC directive have not been fully transposed into Romanian law, specifically;

- Article 6.1 – We were unable to locate any national legislation relating to the requirement to publish the separated accounts for transport and infrastructure.
- Article 6.1 – We were unable to locate national legislation prohibiting the transfer of public funding between infrastructure managers and transport operators.
- Article 6.1 – We were unable to locate national legislation relating to the way in public funding is shown in accounts.
- Article 9.4 – We were unable to locate any national legislation relating to the requirement to publish the separated accounts for freight.
- Article 9.4 – We were unable to locate national legislation relating to the way in which transport PSO funds are shown in accounts.
- Article 9.4 – We were unable to locate national legislation relating to the prohibition on the transfer of transport PSO funds.

22.4.4 We note that the separation of the transport and infrastructure operations was implemented in 1998, predating the EC directive 2001/12/EC by 3 years. This is despite Romania not becoming a member of the EU until 2007

22.4.5 It is not clear who is responsible for the monitoring of compliance with the requirements of the accounting separation directives.

22.5 Sources of Information

22.5.1 Romanian laws and regulations:

22.5.2 Government Decision no 584/1998, amended by no. 274/22.02.2001

22.5.3 Emergency Ordinance No. 12/1998; Transport on Railways and the reorganization of the Romanian National Company of Romanian Railways.[365]

22.5.4 Annual accounts:

- o CFR Calatori (Passenger) Annual Reports (2004 – 2007)
- o CFR Marfa (Freight) Financial Reports (2005 – 2007)

22.5.5 Other Information

- o IBM Global Business Services, Rail Liberalisation Index 2007
- o CFR Calatori website[366]
- o CFR Marfa website[367]
- o CFR SA (Infrastructure) website[368]
- o Correspondence with CFR Calatori, February 2009
- o Correspondence with CFR Marfa, March 2009
- o Desk based research

22.6 CFR Calatori

[365] http://www.csf.mt.ro/legislatie/oug%2012_1998.pdf
[366] www.cfr.ro/calatori
[367] www.cfrmarfa.cfr.ro
[368] www.cfr.ro/CFR_new/infrastructura.htm

22.6.1 CFR Calatori is Romania's state owned passenger railway undertaking and was created as a legally separate entity to the former state monopoly as a result of Romanian legislation passed in 1998. The company's primary functions are to:

- Provide long distance and international passenger services
- Provide regional and interregional passenger services
- Provide services to the state, such as military or penitentiary transport functions.

22.6.2 CFR Calatori provides these services under a public service contract and has a large share in the passenger market (over 98% in 2007[369].)

22.6.3 It has not been possible to obtain full annual reports for CFR Calatori in the public domain. We have, however, been in correspondence with them and have been provided with, amongst other data, balance sheets and profit and loss accounts.

22.6.4 Accounting Issues

Table 264 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Poor	No audit report was provided with the information provided to us by CFR Calatori. We have requested this further information.
Transparency	Partial	The accounts provided give a good level of disaggregation of the data but there is no explanation of how this was disaggregated, what principles were used and what some of the potentially ambiguous categories include. As they were not supplied to us, it is not clear whether the notes to the accounts would provide more detailed information of these transactions.
Visibility of transfers from/to other rail businesses	Poor	There is no mention of transfers with other rail businesses in the information provided to us by CFR Calatori. As they were not supplied to us, it is not clear whether the notes to the accounts would provide details of this.
Visibility of intra-group transfers	Poor	There is no mention of group transfers in the information provided to us by CFR Calatori, including transfers for track access charges which are paid to the infrastructure manager, CFR SA. As they were not supplied to us, it is not clear whether the notes to the accounts would provide details of this.

Table 265 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating	Yes	CFR Calatori is legally separate to the Romanian infrastructure manager and produces separate accounts. We were unable to obtain accounts from the public domain and, hence, are not

369 IBM Global Business Service, Rail Liberalisation Index 2007, p 188

	to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..’		able to confirm that they are published.
6.1(a)	Requirement to publish separated accounts	No	We were unable to locate published accounts for CFR Calatori. All data we have analysed was received directly from the company.
6.1	‘Public funds paid to one of these two areas of activity may not be transferred to the other.’	Yes	We were unable to locate any evidence suggesting that public funds have been transferred between CFR Calatori and the infrastructure manager.
6.1	‘The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.’	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not given by CFR Calatori. Please see chapter 29 for further information on the requisite information.
6.2	‘Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.’	Yes	CFR Calatori has been legally separated from the infrastructure manager.
9.4	‘In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.’	Yes	CFR Calatori has been legally separated from the freight operator.
9.4(a)	Requirement to publish separate accounts	Yes	CFR Calatori has been legally separated from the freight operator.
9.4	‘Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	No	Amounts received by CFR Calatori from the state relating to ‘operating compensation’ and ‘revenues from subsidies’ are shown as a separate entry in the P&L. It is not clear whether this represents PSO funding for these years or what the funds are used for. If this is the case, there is no disaggregation of the sums received by PSO contract.
9.4	‘…and may not be transferred to	Yes	We were unable to locate any evidence

	activities relating to the provision of other transport services or any other business.'		suggesting that PSO funds have been transferred to other businesses.

22.6.5 In our opinion, the accounts for CFR Calatori are not wholly compliant with the EC directives on accounting separation. Specifically:

- Article 6.1 – The accounts do not appear to be published. All information used for analysis was obtained directly from the company.
- Article 6.1 – There is no detail of transactions between the railway companies and there is insufficient detail in statutory accounts to detect illegal cross subsdisation.
- Article 9.4 – It is not clear whether PSO compensation is shown separately and, if the figure shown does represent PSO, there is no disaggregation of PSO compensation by PSO contract.

22.6.6 The tables below show the amounts of public funding received by CFR Calatori shown in the accounts (Table 266) and from other sources (Table 267). In this case the data in the latter was obtained directly from the company and specifies two types of PSO compensation – PSO compensation for operations and grants for rolling stock related to PSO.

Table 266 Public funding from accounts

Year	2004		2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
PSO	188	PSO funding	158	PSO funding	440	PSO funding	280	PSO funding
Total	188		158		440		280	

Table 267 Public funding from other sources

Year	Amount (€m)	Type	Source
2005	210	PSO – compensation for operations	CFR Calatori
	73	Grant for rolling stock as part of PSO.	CFR Calatori
2006	422	PSO – compensation for operations	CFR Calatori
	131	Grant for rolling stock as part of PSO	CFR Calatori
2007	302	PSO – compensation for operations	CFR Calatori
	195	Grant for rolling stock as part of PSO	CFR Calatori

Table 268 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	374	400	705	653
Revenue from Passenger transport	358	371	660	587
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	188	158	440	280
Wages, Salaries, Social Security Payments	63	70	89	119
Operating costs	372	473	595	693
Operating profit	2	-73	110	-40
Financial expenses	14	29	39	21
P&L on ordinary activities before tax	1	-81	109	-41
Total fixed assets	596	801	924	951
Long term receivables	0	0	0	0
Total current assets	118	125	164	177
Trade debtors	32	40	19	56
Other debtors	70	67	79	99
Current asset investments	0	0	0	0
Cash at bank and in hand	4	4	46	6
Creditors: <1yr (Current Liabilities)	190	294	228	272
Creditors: >1yr	547	696	819	846
Provisions for liabilities and charges	0	0	0	2
Equity	-23	-102	41	8
	No. / Km			
Average no. employees	0	0	0	0
Passenger-kilometres (m)	8,419	7,960	8,049	7,417
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

Table 269 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	374	400	705	653
Net profit (€m)	1	-81	109	-41
Operating profit (€m)	2	-73	110	-40
Total assets (€m)	714	925	1,088	1,128
Profitability				
Operating profit margin	0%	-18%	16%	-6%
Net margin	0%	-20%	15%	-6%
Return on assets	0%	-9%	10%	-4%
Return on equity	-5%	80%	267%	-521%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	2.0	2.1	1.8	1.6
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	17%	15%	15%	17%
Unit operating costs (€ '000)	44	59	74	93
Total Revenue per Passenger Km (€)	0.04	0.05	0.09	0.09
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	389	557	487	466
Debt / Total liabilities	53%	56%	47%	42%
Debt: Equity ratio	-17.1	-5.5	12.0	59.7
Quick ratio	0.6	0.4	0.6	0.6
Current ratio	0.6	0.4	0.7	0.7
Debt service coverage ratio	0.1	-2.5	2.8	-2.0
Public funding				
Total public income (€m)	188	158	440	280
Public funding / costs	51%	33%	74%	40%
Public funding / revenue	50%	40%	62%	43%

22.6.7 The profitability of CFR Calatori has been variable, making profits in 2004 and 2006 and losses in 2005 and 2007. During the profitable years revenues from public funding were higher as a proportion of costs. Between 2004 and 2007, the current and quick ratios have all been less than 1, indicating potential liquidity issues.

22.7 CFR Marfa

22.7.1 CFR Marfa is the Romanian national freight transport operator operating on the network run by CFR SA. It was founded in 1998 as a result of Government decision 582/1998 reorganising SNCFR; splitting the company into five autonomous legal entities.

22.7.2 At the start of 2008, the sole shareholder of CFR Marfa was the Romanian State, though it is intended that eventually it is to be privatised. This issue has been deliberated for some time, but it remains unclear when privatisation is expected to be completed.

22.7.3 Currently, the Ministry of Transport, Constructions and Tourism appoints the company's management structures and has representatives on the board of directors.

22.7.4 CFR Marfa provided us with information for the years 2005 – 2007.

22.7.5 Accounting Issues

Table 270 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Poor	We requested an audit report from CFR Marfa, but were advised by them that the auditor's opinion is confidential and that they would not provide us with a copy.
Transparency	Good	A good level of detail is given in the company accounts provided by CFR Marfa, including a disaggregation of income, expenditure, assets and liabilities and a set of explanatory notes to the accounts.
Visibility of transfers from/to other rail businesses	Poor	A note to the CFR Marfa accounts reads '…the Group unfolds a significant part of commercial transactions with other state owned or controlled companies. In accordance with the requirements of IAS 24, the Group has not disclosed the transactions and balances with other state owned or controlled companies or with companies where it holds a significant percentage of the shares.'[370] Other transfers are not shown in the report.
Visibility of intra-group transfers	Poor	There are no details of intragroup transfers. CFR Calatori is legally separate from infrastructure and freight operating companies.

Table 271 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets	Yes	CFR Marfa provides only freight services and is legally separate to the infrastructure manager and, hence,

[370] Ibid, p 37

	are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'		provides separate accounts.
6.1(a)	Requirement to publish separated accounts	No	CFR Marfa provides only freight services and is legally separate to the infrastructure manager. However, we were unable to locate any separate accounts which are published. All information analysed was obtained directly from the company.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We were unable to identify any evidence that public funds are transferred between the infrastructure manager and CFR Marfa.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	CFR Marfa provides only freight services and is legally separate to the infrastructure manager. The company receives no public funding.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	CFR Marfa has been legally separated from the infrastructure manager since 1998.
9.4	'In the case of railway undertakings, profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	CFR Marfa has been legally separated from the passenger operator since 1998.
9.4(a)	Requirement to publish separated accounts	No	We were unable to locate any published accounts for CFR Marfa and all information which was analysed was provided directly by the company.
9.4	Requirement to publish separate accounts	Yes	CFR Marfa does not receive funding for passenger PSO.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	CFR Marfa does not receive funding for passenger PSO.

22.7.6 In our opinion, CFR Marfa is not wholly compliant with the EC directives on accounting separation. The company does not appear to publish its separated accounts and there are some potential concerns relating to a lack of transparency of transactions between CFR Marfa and the infrastructure manager.

22.7.7 Further, there is reference in the accounts to government funding being granted to CFR Marfa, specifically;

- It appears that CFR Marfa 'benefitted from the provisions of the Governmental Emergency Ordinance 37/2004 regarding the measures to decrease arrears in the Romanian economy.'[371]
- The company applied the provisions of the Romanian Ministry of Finance Order 128/2005 to account for the fiscal facility and credited the shareholder equity with the amount relating to the exempted deferred taxes and penalties accrued up to 28/05/2004.[372]

22.7.8 There are potential state aid issues relating to these transations.

Table 272 Summary Financial Data[373]

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	✂	✂	✂	✂
Revenue from Passenger transport	✂	✂	✂	✂
Revenues from Freight transport	✂	✂	✂	✂
Revenue from infrastructure charges	✂	✂	✂	✂
Total subsidisation	✂	✂	✂	✂
Wages, Salaries, Social Security Payments	✂	✂	✂	✂
Operating costs	✂	✂	✂	✂
Operating profit	✂	✂	✂	✂
Financial expenses	✂	✂	✂	✂
P&L on ordinary activities before tax	✂	✂	✂	✂
	✂	✂	✂	✂
Total fixed assets	✂	✂	✂	✂
Long term receivables	✂	✂	✂	✂
Total current assets	✂	✂	✂	✂
Trade debtors	✂	✂	✂	✂
Other debtors	✂	✂	✂	✂
Current asset investments	✂	✂	✂	✂
Cash at bank and in hand	✂	✂	✂	✂
Creditors: <1yr (Current Liabilities)	✂	✂	✂	✂
Creditors: >1yr	✂	✂	✂	✂
Provisions for liabilities and charges	✂	✂	✂	✂
Equity	✂	✂	✂	✂
	No. / Km			
Average no. employees	✂	✂	✂	✂
Passenger-kilometres (m)	✂	✂	✂	✂
Tonne-kilometres (m)	✂	✂	✂	✂
Managed kilometres	✂	✂	✂	✂

371 CFR Marfa Consolidated Accounts 2007, p 40
372 Ibid, p 31
373 Information redacted at request of CFR Marfa.

Table 273 Financial Ratios[374]

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	✂	✂	✂	✂
Net profit (€m)	✂	✂	✂	✂
Operating profit (€m)	✂	✂	✂	✂
Total assets (€m)	✂	✂	✂	✂
Profitability				
Operating profit margin	✂	✂	✂	✂
Net margin	✂	✂	✂	✂
Return on assets	✂	✂	✂	✂
Return on equity	✂	✂	✂	✂
Viability ratio	✂	✂	✂	✂
Efficiency				
Liabilities / operating costs	✂	✂	✂	✂
Cost per staff member (€ '000)	✂	✂	✂	✂
Staff costs as a proportion of operating costs	✂	✂	✂	✂
Unit operating costs (€ '000)	✂	✂	✂	✂
Total Revenue per Passenger Km (€)	✂	✂	✂	✂
Total Revenue per Freight Km (€)	✂	✂	✂	✂
Total revenue per managed km (€m)	✂	✂	✂	✂
Indebtedness				
Total debt of the company (€m)	✂	✂	✂	✂
Debt / Total liabilities	✂	✂	✂	✂
Debt: Equity ratio	✂	✂	✂	✂
Quick ratio	✂	✂	✂	✂
Current ratio	✂	✂	✂	✂
Debt service coverage ratio	✂	✂	✂	✂
Public funding				
Total public income (€m)	✂	✂	✂	✂
Public funding / costs	✂	✂	✂	✂
Public funding / revenue	✂	✂	✂	✂

22.7.9 The two tables above show that in 2006 and 2007, CFR Marfa was profitable, although the company's profit margins seem quite volatile. The total debt of the company seems quite stable across the whole period and, apart from in 2006, when revenues fell, the quick and current ratio's are healthy.

22.8 CFR SA

22.8.1 CFR SA is Romania's infrastructure management company. It was founded in 1998 by legislation restructuring SNCFR.

22.8.2 Since the accounts are not published, we have been unable to obtain accounts for CFR SA. Hence, no analysis was possible for this company.

22.9 Grup Feroviar Romania

22.9.1 GFR is the largest private rail freight transport company in the market, turning over €85m in 2007.[375]

22.9.2 Since the accounts are not published, we have been unable to obtain the accounts for GFR and, consequently, no analysis has been possible.

22.10 Conclusions

22.10.1 From the information available, we can conclude that:

374 Information redacted at request of CFR Marfa.
375 News article 21/10/2008, www.rzd-partner.com

- Romania has failed to transpose the majority of the requirements of the directive into national legislation.
- There appears to be no requirement for companies to publish their accounts in Romania as the only information we managed to obtain came directly from the companies themselves.
- Since they are not published, we were unable to locate an audit report for any of the accounts we obtained and, hence, were unable to complete our analysis.
- Apart from the above, CFR Calatori and CFR Marfa seems to be largely compliant with the majority of the requirements of the EC directives on accounting separation. There are some doubts about whether the companies reflect the prohibition on the transfer of public funding in the format of its accounts though.
- For the infrastructure company and Grup Feroviar Romania, we did not locate the accounts and, hence, were unable to complete a full analysis.

23 SLOVAKIA

23.1 Industry overview

23.1.1 There has been separate ownership of infrastructure and transport in Slovakia since 2002, when the transport operations of the state owned monopoly, ZSR AS, were allocated to ZSSK AS, a new legally separate company. Since then ZSR has been responsible for infrastructure only.

23.1.2 In 2005, passenger and freight activities were separated into two legally separate companies – ZSSK SA and ZSSK Cargo SA. ZSR, ZSSK and ZSSK Cargo all remain state owned.

23.1.3 The URZD is a rail specific authority which was established in 2005 as part of Act No. 109/2005, amending No. 164/1996. It is responsible for railway safety, the granting of safety permits and licenses for transport and infrastructure and the monitoring of prices and contracts in the rail industry.

23.1.4 In 2007, 3 passenger operators and 15 freight operators were granted licenses to operate on the Slovakian rail network.

23.2 List of Railway Undertakings[376]

Passenger	Freight	Infrastructure Manager
ZSSK* (Zeleznicna Spolocnost Slovensko) LTE Logistik a Transport Slovakia s.r.o ZSR (Zeleznice Slovenkei Republiky)[377]	ZSSK Cargo* Prva Slovenska zeleznicna Trnavska stavebna spolocnost a.s. LTE Logistik a Transport Slovakia s.r.o ZDD a.s. ZSR (Zeleznice Slovenkei Republiky) U.S. Steel Kosice s.r.o. HBz a.s. Slovenska zeleznicna dopravna spolocnost a.s. TSS Bratislava a.s. Zeleznicne stavebnictvo Bratislava a.s. Bratislavska regionalna kolajova spolocnost a.s Lokorail a.s. Zeleznicne stavby a.s. NVESTEX Group s.r.o.	ZSR (Zeleznice Slovenkej Republiky)*

*Companies with Slovakian revenues greater than €50m which will be studied in depth.

23.3 Industry Regulator & Government Departments

- Regulatory Authorities

[376] URZD, Licenses for the operation of transport on nationwide or regional railroads granted in 2007, www.urzd.sk

[377] Listed as 'Irregular passenger and freight' providor

    - URZD[378]
- Ministry of Finance
    - Ministerstvo Financii[379]
- Ministry of Transport, Post and Telecommunications
    - Ministerstvo Dopravy Post a Telekomunikacii[380]

23.4 Legal Framework

23.4.1 Act No. 164/1996 on railroads and the on amendment of the Act No. 455/1991 Coll. On Small Trade Business (the Trade License Act)

Article 69, Paragraph 4
If the same legal person or the natural person is at the same time the railroad manager and the carrier, the legal or natural person shall keep the separate accounts of the railroad operation from the transport services.[381]

Table 274 EC Directive 2001/12/EC compliance

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Partial (i)	'If the same legal person or the natural person is at the same time the railroad manager and the carrier, the legal or natural person shall keep the separate accounts of the railroad operation from the transport services.'
6.1(a)	Requirement to publish separated accounts	No	There is no reference to publishing the separated accounts, only keeping them.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	No	We were unable to identify any legislation specifically relating to this point.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No (ii)	We were unable to identify any legislation specifically relating to this point.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	No (iii)	We were unable to identify any legislation specifically relating to this point.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	No	We were unable to identify any legislation specifically relating to this point.
9.4(a)	Requirement to publish the separated	No	We were unable to identify any legislation specifically relating to

378 www.urzd.sk
379 www.finance.gov.sk
380 www.telecom.gov.sk
381 Act 164/1996 Coll on railroads and on the amendment of the Act No. 455/1991 Coll. on small trade business (the Trade License Act)

Article	Issue	Transposition	Law
	accounts		this point.
9.4	’Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	No (iv)	We were unable to identify any legislation specifically relating to this point.
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other business.’	No	We were unable to identify any legislation specifically relating to this point.

23.4.2 Notes

(i) Legislation does not specify separate profit and loss accounts and balance sheets. Only refers to ‘separate accounts’.

(ii) This point is vaguely referred to in other general accounting legislation (No. 23054/2002-92[382] and 431/2002 as amended[383]). However, this does not clearly refer to railway undertakings and only refers to separately stating any income from state budgets.

(iii) This structure is implemented in the Slovakian rail industry; however, we have been unable to identify any specific reference in domestic legislation about the separation of distinct divisions.

(iv) The domestic general accounting legislation partially implements this part of the directive. However, there is no specific reference to the railway sector.

23.4.3 In our opinion, the EC directives on accounting separation are not transposed into national legislation. Specifically:

- Article 6.1 – We were unable to identify any reference to the need to publish the separated accounts.
- Article 6.1 – We were unable to identify legislation prohibiting the transfer of public funds between infrastructure managers and railway undertakings.
- Article 6.1 – We were unable to identify any railway specific legislation relating to the requirement that the accounts are presented in such a way as to reflect the prohibition of the transfer of public funds.
- Article 6.2 – We were unable to identify legislation creating distinct divisions for transport and infrastructure management. However, as the article states that member states ‘may’ create separate divisions or companies; we regard this point as optional and Slovakia is, therefore, in compliance.
- Article 9.4 – We did not identify any legislation relating to the separation of passenger and freight operations or the publishing of these separated accounts, although this structure is implemented in practice in Slovakia.
- Article 9.4 – We were not able to identify any legislation relating to the separation of accounts for PSO activities.
- Article 9.4 – We did not locate any legislation relating to prohibition of the transfer of passenger transport PSO.

[382] Measure of the Ministry of Finance of the Slovak Republic No. 23054/2002-92 on stipulation of details of accounting procedures and framework chart of accounts for entrepreneurs keeping double entry accounting, December 2002

[383] Act No. 198/2007 amending act No. 431/2002 on accounting as amended and on amendments of some acts, March 2007

23.4.4 In practice, article 6.2 has been implemented in the Slovakian rail market. Hence, ZSR and ZSSK are legally separate companies and publish separate accounts, satisfying part of article 6.1.

23.5 Sources of Information

23.5.1 Slovakian laws and regulations:

- 164/1996 – Act of the National Council of the Slovak Republic on railroads and on the amendment of the Act No.455/1991 Coll. On Small Trade Business (the Trade License Act) as last amended by regulations. May 1996

23.5.2 Annual accounts:

- ZSSK Annual Reports (2005 – 2007)
- ZSSK Cargo Annual Reports (2005-2007)
- ZSR Annual Reports (2004-2007)

23.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- Correspondence with Ministry of Transport, Posts and Telecommunications of the Slovak Republic
- Correspondence with ZSSK
- Correspondence with ZSSK Cargo
- Moody's Investor Services, Credit opinion: Zeleznice Slovenkej republiky (ZSR)
- Desk based research

23.6 Zeleznicna Spolocnost Slovensko (ZSSK)

23.6.1 ZSSK is the state owned passenger railway undertaking. Until 2002, the company was fully integrated (called Zeleznice Slovenkej Republiky (ZSR)), providing freight, passenger and infrastructure manager services.

23.6.2 As a result of the demerger in 2002, ZSR retained the infrastructure manager duties of the group and ZSSK was formed, taking responsibility for passenger and cargo services. In 2005 ZSSK was split into ZSSK, providing passenger services, and ZSSK Cargo, providing freight services.

23.6.3 Apart from rail transport, ZSSK generates revenues from various activities including road transport (both freight and passenger), real estate, retail and manufacturing.[384] Despite this, the largest source of revenue in 2007 was from state compensation for PSO, which constituted 61.12% of ZSSK's total income.[385]

[384] ZSSK Annual Report 2007, p 9
[385] Ibid, p 19

23.6.4 Accounting Issues

Table 275 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the financial statements reported in compliance with the International Reporting Framework present an objective overview of the financial situation in all substantial matters as regards Zeleznicna Spolocnost Slovensko, as on 31st December 2007, as well as the economic results and financial flows for the year then ended, in accordance with the International Financial Reporting Standards and their interpretations as adopted by the EU.' Data Eko Audit Consult Zilina, 2008
Transparency	Partial	There is a good level of detail in the accounts relating to railway issues such as track infrastructure charges and public funding. However there is not a breakdown of revenues from the different ZSSK activities.
Visibility of transfers from/to other rail businesses	Good	There is a good level of disclosure regarding the transactions with ZSR for track access charges and related services. Some services purchased from ZSSK Cargo are financed using PSO compensation from the state. The transfers are documented in the accounts (see Table 277), however, little detail is given explaining these transactions.
Visibility of intra-group transfers	N/A	Since ZSSK provides only passenger services, intergroup transfers do not occur.

Table 276 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	ZSSK has been legally separate to the ZSR (the infrastructure manager) since its founding in 2002 and both produce separate accounts.
6.1(a)	Requirement to publish separated accounts	Yes	Accounts are available for download from the company website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	We have not encountered any evidence suggesting that public funds are transferred between ZSSK and ZSR.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the

			requirements for statutory accounts.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	ZSSK and ZSR have been separate since 2002.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	ZSSK and ZSSK Cargo have been separate since 2005 and have produced wholly separate accounts since then.
9.4(a)	Requirement to publish the separated accounts	Yes	As of 2005 ZSSK does not perform freight activities and, therefore, is not required to publish separate freight accounts. Nevertheless, since 2005, the separated ZSSK Cargo has published separate accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	Amounts and uses of PSO funds received are clearly shown in the accounts. This is not broken down into separate PSO contracts.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	We have not encountered any evidence suggesting that PSO funds are transferred to other businesses. The accounts give a breakdown of all uses of PSO funds and the purpose of all those funds transferred to other rail businesses.

23.6.5 In our opinion, the ZSSK accounts are not wholly compliant with the EC directives on accounting separation but this is limited to one ambiguity;

- Article 6.1 – The statutory accounting regime is not sufficient to detect the illegal transfer of public funding.
- Article 9.4 – PSO funds are not broken down by PSO contract, only aggregate figures are given.

Table 277 PSO Compensation Expenditure[386]

Use	2007 (€m)
- ZSR – track access charges	50.28
- ZSR – traction energy	27.46
ZSR Total	77.74

[386] ZSSK Annual Report 2007, p 20

ZSSK Cargo – Purchased Services	39.63
Substitute bus transport	0.26
WGS Services	3.05
Slovnaft - diesel	0.33
Euroclean – cleaning of coaches	3.08
Personnel costs – wages + insurance	37.05
Total use	161.14
Compensation for PSO	161.14

23.6.6 This table shows the usage of PSO compensation by ZSSK. There is mention of services purchased from ZSSK Cargo being financed by PSO compensation. This is potentially concerning as the transfer of PSO funds for passenger activities to other companies is prohibited.

Table 278 Public funding from accounts[387]

Year	2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
PSO	128	PSO	151	PSO	161	PSO
Total	128		151		161	

Table 279 Public funding from all sources

Year	Amount (€m)	Type	Source
2005	128	PSO	Ministry of Transport
	128	PSO	ZSSK
2006	151	PSO	Miinistry of Transport
	151	PSO	ZSSK
2007	161	PSO	Ministry of Transport
	161	PSO	ZSSK

23.6.7 Table 278 and Table 279 show that the figures given in the accounts match those provided to us through correspondence with the Ministry of Transport and ZSSK themselves.

[387] Correspondence with ZSSK and Slovakian Ministry of Transport, Post and Telecommunication, January – February 2009, figures also available in 2005 – 2007 ZSSK Annual Reports

23.6.8 Performance

Table 280 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	0	205	245	249
Revenue from Passenger transport	0	70	69	75
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	128	151	161
Wages, Salaries, Social Security Payments	0	41	47	54
Operating costs	0	216	249	249
Operating profit	0	-11	-4	0
Financial expenses	0	6	13	17
P&L on ordinary activities before tax	0	-13	6	-4
Total fixed assets	0	316	365	399
Long term receivables	0	0	0	0
Total current assets	0	31	44	44
Trade debtors	0	12	21	15
Other debtors	0	0	0	1
Current asset investments	0	0	0	0
Cash at bank and in hand	0	1	11	13
Creditors: <1yr (Current Liabilities)	0	67	53	30
Creditors: >1yr	0	76	128	184
Provisions for liabilities and charges	0	11	22	9
Equity	0	193	205	220
	No. / Km			
Average no. employees	0	4,775	4,893	4,864
Passenger-kilometres (m)	2,227	2,166	2,194	2,148
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

Table 281 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	0	205	245	249
Net profit (€m)	0	-13	6	-4
Operating profit (€m)	0	-11	-4	0
Total assets (€m)	0	347	408	443
Profitability				
Operating profit margin	-	-5%	-2%	0%
Net margin	-	-6%	3%	-2%
Return on assets	-	-4%	2%	-1%
Return on equity	-	-7%	3%	-2%
Viability ratio	-	1	1	1
Efficiency				
Liabilities / operating costs	-	0.7	0.8	0.9
Cost per staff member (€ '000)	-	45	51	51
Staff costs as a proportion of operating costs	-	19%	19%	22%
Unit operating costs (€ '000)	0	100	114	116
Total Revenue per Passenger Km (€)	0.00	0.09	0.11	0.12
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	0	73	69	26
Debt / Total liabilities	-	47%	34%	12%
Debt: Equity ratio	-	0.4	0.3	0.1
Quick ratio	-	0.2	0.6	1.0
Current ratio	-	0.5	0.8	1.5
Debt service coverage ratio	-	-1.9	-0.3	0.0
Public funding				
Total public income (€m)	0	128	151	161
Public funding / costs	-	59%	61%	65%
Public funding / revenue	-	63%	62%	65%

23.6.9 Since ZSSK has only existed in its current state since 2005, the previous year's data is not included. It seems that since 2005, the profitability of the business has increased so that in 2007 the company made a very small operating profit and during this period, the quick, current and debt service ratios have all improved.

23.7 ZSSK Cargo

23.7.1 ZSSK Cargo split from ZSSK in 2005 and provides freight services only. The company is owned by the state (through the Ministry of Transport, Post and Telecommunications) and recorded record results in 2007.[388]

23.7.2 Accounting Issues

Table 282 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion the accompanying financial statements give a true and fair view of the Company's financial position as at 31st December 2007 and of its financial performatnce and its cash flows for the year then ended in accordance with International Financial Reporting Standards as adopted by the EU.' Ernst & Young, June 2008
Transparency	Good	ZSSK Cargo's accounts give a high level of disclosure for all its activities.
Visibility of transfers from/to other rail businesses	Good	There is a good level of disclosure of activities between ZSSK Cargo and other rail companies. Note 23 in the 2007 Annual report outlines the transactions during 2006 and 2007 between ZSR, ZSSK and ZSSK Cargo.[389]
Visibility of intra-group transfers	N/A	Since ZSSK Cargo provides only freight services, intergroup transfers do not occur.

Table 283 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	ZSSK Cargo is legally separate to both ZSR (the infrastructure manager) and ZSSK (the passenger transport operator) and publishes separate accounts.
6.1(a)	Requirement to publish separated accounts	Yes	Annual reports are available for download on the ZSSK Cargo website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	ZSSK Cargo does not receive public funds and we have not encountered any evidence suggesting it receives public

[388] ZSSK Cargo Annual Report 2007, p 4
[389] ZSSK Cargo Annual Report 2007, p 43

			funds from ZSR.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	ZSSK Cargo published separate accounts to ZSR and ZSSK.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	ZSSK Cargo is legally separate to ZSR and ZSSK.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	ZSSK Cargo publishes its own accounts, including balance sheets and P&L.
9.4(a)	Requirement to publish the separated accounts	Yes	Annual reports are available for download on the ZSSK Cargo website.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	ZSSK Cargo does not receive PSO compensation for passenger activities.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	ZSSK Cargo does not receive PSO compensation for passenger activities.

23.7.3 ZSSK Cargo AS complies with all accounting separation requirements of directive 2001/12/EC.

Table 284 Public funding from accounts[390]

Year	2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
Equity grant	0		0		3	Increase in equity
Total	0		0		3	

23.7.4 There are entries in the cashflow statement and statement of changes in equity for 2007 relating to state contributions of SKK100m (around €3m) which are not elaborated on.[391] This is a potential breach of state aid regulations.

[390] Correspondence with ZSSK and Slovakian Ministry of Transport, Post and Telecommunication, January – February 2009, figures also available in 2005 – 2007 ZSSK Annual Reports
[391] ZSSK Cargo Annual Report 2007, pp 20 – 21

Table 285 Financial ratios

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	0	441	443	459
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	368	391	404
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	3
Wages, Salaries, Social Security Payments	0	101	100	114
Operating costs	0	452	474	462
Operating profit	0	-11	-31	-3
Financial expenses	0	15	11	13
P&L on ordinary activities before tax	0	-19	-23	-7
Total fixed assets	0	475	550	580
Long term receivables	0	0	0	0
Total current assets	0	105	120	99
Trade debtors	0	61	77	73
Other debtors	0	20	22	11
Current asset investments	0	0	0	0
Cash at bank and in hand	0	5	6	1
Creditors: <1yr (Current Liabilities)	0	149	197	211
Creditors: >1yr	0	78	91	75
Provisions for liabilities and charges	0	25	40	46
Equity	0	328	343	347
	No. / Km			
Average no. employees	18,112	12,109	11,488	10,813
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	19,192	18,431	19,331	18,979
Managed kilometres	0	0	0	0

Table 286 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	0	441	443	459
Net profit (€m)	0	-19	-23	-7
Operating profit (€m)	0	-11	-31	-3
Total assets (€m)	0	580	670	679
Profitability				
Operating profit margin	-	-3%	-7%	-1%
Net margin	-	-4%	-5%	-2%
Return on assets	-	-3%	-3%	-1%
Return on equity	-	-6%	-7%	-2%
Viability ratio	-	1	1	1
Efficiency				
Liabilities / operating costs	-	0.6	0.7	0.7
Cost per staff member (€ '000)	0	37	41	43
Staff costs as a proportion of operating costs	-	22%	21%	25%
Unit operating costs (€ '000)	0	25	25	24
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	0.00	0.02	0.02	0.02
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	0	82	177	173
Debt / Total liabilities	-	32%	54%	52%
Debt: Equity ratio	-	0.2	0.5	0.5
Quick ratio	-	0.6	0.5	0.4
Current ratio	-	0.7	0.6	0.5
Debt service coverage ratio	-	-0.8	-2.8	-0.2
Public funding				
Total public income (€m)	0	0	0	3
Public funding / costs	-	0%	0%	1%
Public funding / revenue	-	0%	0%	1%

23.7.5 ZSSK Cargo's profitability has increased between 2005 and 2007 (the company was only separated in 2004), although during each of these three periods, it has made pre tax losses. Consequently, it has quick and current ratios of less than one, potentially indicating liquidity problems.

23.8 Zeleznice Slovenkej Republiky (ZSR)

23.8.1 ZSR is the infrastructure manager for Slovakia. It was originally established in 1993, after the separation of Czechoslovakia, replacing Ceskoslevenske statni drahy. Until 2002, ZSR was a state owned, integrated company, offering freight, passenger and infrastructure managing services. The freight and passenger divisions were separated in 2002, when ZSSK was formed. Today, ZSR is responsible for the management, operation and maintenance of the railway network and related services.

23.8.2 The company is fully state owned through the Slovak Ministry of Transport, Post and Telecommunications.[392]

23.8.3 Accounting Issues

Table 287 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, financial information presented in the annual report is consistent, in all material respects, with the financial statements from which it has been derived.' Solidita, April 2008
Transparency	Good	ZSR's annual reports show a good level of disclosure. They detail the costs, revenues and state contributions on all core business activities.[393]
Visibility of transfers from/to other rail businesses	Good	ZSR are paid infrastructure access charges and fees for the sale of traction electric energy by both ZSSK and ZSSK Cargo and the total revenues this generates stated in the accounts. These transactions are not broken down by company.
Visibility of intra-group transfers	Good	ZSR is an independent infrastructure management company; however, since both ZSR and ZSSK Cargo are owned by the state, this is effectively a group. As there is detail of public funding, and of transactions with ZSSK and ZSSK Cargo, the intra group transfers seem to be transparent.

Table 288 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of	Yes	ZSR is legally separate to ZSSK (the passenger transport operator) and publishes its own accounts.

[392] Moody's Investor Services, Credit opinion: Zeleznice Slovenkej republiky
[393] ZSR Annual Report 2007, p 22

	transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..’		
6.1(a)	Requirement to publish separated accounts	Yes	The annual reports are available for download from the ZSR website.
6.1	‘Public funds paid to one of these two areas of activity may not be transferred to the other.’	Yes	We have been unable to identify any evidence suggesting the transfer of public funds between ZSR and any other railway undertaking.
6.1	‘The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.’	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by ZSR. Please see chapter 29 for further information on the requisite information.
6.2	‘Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.’	Yes	ZSR has been legally separated from transport operations.
9.4	’In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.’	Yes	ZSR does not provide freight operations.
9.4(a)	Requirement to publish the separated accounts	Yes	ZSR does not provide freight operations.
9.4	’Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…’	Yes	ZSR does not conduct PSO transport activities.
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	ZSR does not conduct PSO transport activities.

23.8.4 In our opinion, ZSR complies with EC directives on accounting separation. However, statutory accounts are not sufficiently detailed to detect illegal transfers of public funds.

Table 289 Public funding from accounts[394]

Year	2004		2005		2006		2007	
Type	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use	Amount (€m)	Use
Operating subsidies	59	Operating subsidies	95	Operating subsidy	100	Operating subsidy	107	Operating subsidy
State investment subsidies	25	Procurement of assets	0		11	Procurement of assets	31	Procurement of assets
EU funding	21	Funding from various EU funds	48	Funding from various EU funds	88	Funding from various EU funds	73	Funding from various EU funds
Total	104		141		192		211	

Table 290 Public funding from all sources

Year	Amount (€m)	Type	Source
2004	59	Operating grant	Ministry of Transport
	25	Investment grants	Ministry of Transport
2005	95	Operating grant	Ministry of Transport
2006	100	Operating grant	Ministry of Transport
	10	Investment grants	Ministry of Transport
2007	107	Operating grant	Ministry of Transport
	31	Investment grants	Ministry of Transport

23.8.5 The two sets of data on operating grants agree, however, there are some slight discrepencies in the figures for investment grants, although the differences are tiny. This could be for a variety of reasons.

[394] Correspondence with ZSSK and Slovakian Ministry of Transport, Post and Telecommunication, January – February 2009, figures also available in 2005 – 2007 ZSSK Annual Reports

23.8.6 Performance

Table 291 Financial ratios

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	408	370	586	1,016
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	0	0	0	0
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	81	143	422	772
Wages, Salaries, Social Security Payments	156	162	164	194
Operating costs	429	361	384	468
Operating profit	-21	10	202	549
Financial expenses	81	73	85	10
P&L on ordinary activities before tax	-47	-22	290	563
Total fixed assets	100	1,566	1,902	2,167
Long term receivables	0	0	0	1
Total current assets	100	103	94	96
Trade debtors	73	67	45	0
Other debtors	0	0	0	0
Current asset investments	0	0	0	0
Cash at bank and in hand	14	23	31	11
Creditors: <1yr (Current Liabilities)	265	282	717	670
Creditors: >1yr	708	810	434	98
Provisions for liabilities and charges	34	33	47	112
Equity	571	545	798	1,386
	No. / Km			
Average no. employees	20,970	19,663	18,118	17,982
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	3,658	3,658	3,658

Table 292 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	408	370	586	1,016
Net profit (€m)	-47	-22	290	563
Operating profit (€m)	-21	10	202	549
Total assets (€m)	201	1,669	1,996	2,265
Profitability				
Operating profit margin	-5%	3%	35%	54%
Net margin	-12%	-6%	50%	55%
Return on assets	-24%	-1%	15%	25%
Return on equity	-8%	-4%	36%	41%
Viability ratio	1	1	2	2
Efficiency				
Liabilities / operating costs	2.3	3.1	3.1	1.9
Cost per staff member (€ '000)	20	18	21	26
Staff costs as a proportion of operating costs	36%	45%	43%	42%
Unit operating costs (€ '000)	-	99	105	128
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	0.10	0.16	0.28
Indebtedness				
Total debt of the company (€m)	821	876	998	83
Debt / Total liabilities	82%	78%	83%	9%
Debt: Equity ratio	1.4	1.6	1.3	0.1
Quick ratio	0.3	0.3	0.1	0.0
Current ratio	0.4	0.4	0.1	0.1
Debt service coverage ratio	-0.3	0.1	2.4	57.2
Public funding				
Total public income (€m)	81	143	422	772
Public funding / costs	19%	40%	110%	165%
Public funding / revenue	20%	39%	72%	76%

23.8.7 Since 2005, ZSR has earned large profits (35% and 54% in 2006 and 2007 respectively) and, from 2006 to 2007, revenues increased by 73%.

23.8.8 The public funding figures include state subsidies for operations and contributions from the EU.

23.9 Conclusions

23.9.1 From the evidence available, we can conclude that:

- The majority of the points of the directives on accounting separation have not be transposed into the national legislation.
- Despite this, the structure of the Slovakian rail industry does indeed reflect the requirements of the directives.
- ZSSK is largely compliant with the directives, the only exception to this being a failure to disaggregate the PSO compensation it receives by contract.
- ZSSK Cargo and ZSR both comply with the requirements on accounting separation. It is worth noting, however, that ZSSK Cargo has been loss making since its separation in 2005, although each year it has moved closer to profitability.

Perhaps of some concern is a relatively small equity increase granted to ZSSK Cargo by the Slovakian State in 2007 which may contravene European laws on state aid.

24 SLOVENIA

24.1 Industry overview

24.1.1 The only licensed rail operator in Slovenia is the state-owned railway company Slovenske Železnice (SŽ). SŽ is an integrated company supplying infrastructure management and passenger and freight transport services.[395] According to IBM's Rail Liberalisation Index, SŽ was converted to a holding structure in 2003, with separate subsidiaries for freight transport, passenger transport and infrastructure. However, it also states that accounting separation has only been implemented for infrastructure and transport.

24.1.2 National rail freight operators have open access to the Slovenian rail network. While foreign rail freight undertakings, international groupings and combined transport providers have open access to cross-border transports, Slovenian law (by 2006) did not allow open access to cabotage transport in the rail freight segment, as required by EU Directive 2004/51/EC. Consequently, the Commission initiated infringement proceedings against Slovenia in December 2006.

24.1.3 Foreign rail passenger operators have open access to cross-border transports, but the national passenger market for transports under a public service contract is reserved exclusively for SŽ until 2010. Purely commercial passenger transport can be offered under normal market conditions.

24.1.4 The Slovenian Transport Ministry has established a regulatory agency pursuant to Directive 2001/14/EC. However, our understanding is that the agency remains subsumed within the Transport Ministry rather than being established as an independent entity. It is responsible for examining the network statement and is entitled to initiate investigations relating to train path allocation and charges. It is not, however, authorised to impose coercive measures or fines and objections to its decisions have a suspensive effect.

24.1.5 The Public Agency for Rail Transport in the Republic of Slovenia (AÂZP) is responsible for the provision of information about licensing, safety certificates, homologation of rolling stock and access to train paths. Infrastructure management is still the responsibility of SŽ.

24.1.6 A "remarkable" aspect of the conflict resolution mechanism regarding train path allocation identified in IBM's Rail Liberalisation Index was the following provision from the 2007 network statement:

> "If, after execution of the coordination process and with the help of other factors pursuant to Annex 4/2, the applicants for colliding train path applications have equal rights to the train path in question, AÂZP shall initiate an auction process which is won by the applicant willing to pay the highest sum for the train path."

This means that the infrastructure charging system can cease to be valid in cases of conflict.[396]

24.1.7 The modal share of rail freight transport fell from 48.4 per cent in 1995 to 22.5 per cent in 2005. The modal share of rail passenger transport increased from 3.9 per cent in 1995 to 4.5 per cent in 2004.

24.1.8 According to the IBM Rail Liberalisation Index, three Austrian rail freight operators were applying for admission to the Slovenian rail network in 2007.

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[395] In 2003, legislation was passed enabling SZ to separate its passenger, freight and infrastructure operations into separate subsidiaries, although this has not been implemented.
[396] IBM Global Business Services, *Rail Liberalisation Index*, 2007.

24.1.9 More recent press reports suggest that SŽ's recent financial performance has worsened. The unaudited results showed a net loss of €23.6 million and first estimates point to a net loss of €13 million in the first three months of 2009. Net losses in freight stood at €10.6 million in the first two months of 2009, while passenger transport lost €2 million in the same period. [397]

24.2 List of Railway Undertakings[398]

Passenger	Freight	Infrastructure Manager
Slovenske Železnice*	Slovenske Železnice*	Slovenske Železnice*

*Companies with Slovenian revenues greater than €50m which will be studied in depth.

24.3 Industry Regulator & Government Department

24.3.1 Government departments:

- Ministry of Transport
  - Ministrstovo za promet[399]
- Ministry of Finance
  - Ministerstvo za finance[400]

24.3.2 Regulatory agencies

- Public Agency for Rail Transport in the Republic of Slovenia (PART)
  - Javna Agencija za Železniški Republike Slovenije (AÂZP)

24.4 Legal Framework

24.4.1 The Slovenian railway industry is governed according to the Railway Transport Act of 1999 (ZzeIP).[401] Relevant articles from the Act are presented in the following paragraphs.

Article 4

6) The carrier, which has received compensation for expenses incurred in accordance with the provisions of the preceding paragraphs of this article shall keep separate records, allowing the separate accounting for the activity for which compensation is received and transparency in the use of this allowance.[402]

Article 27c

4) Slovenske železnice must ensure the provision within its internal organisation separate accounts for the following activities:

[397] Slovenian Press Agency, Limun, 9 April 2009
[398] European Rail Agency, www.era.europa.eu
[399] www.mzp.gov.si
[400] www.mf.gov.si
[401] Zakon o Zelezniskem Prometu http://www.slo-zeleznice.si/en/press_centre/main_documents/
[402] Ibid

- the commercial public services of maintaining and managing the public railway infrastructure and operating transport on it
- the activity of transporting passengers in inland and cross-border regional transport;
- the activity of goods transport.

5) Slovenske železnice must ensure the public disclosure of separate accounting statements (final accounts and balance sheets) for the aforementioned activities in accordance with regulations governing companies. Separate accounts may also be established for other key activities.

Table 293 EC Directive 2001/12/EC compliance

<table>
<tr><th>Article</th><th>Issue</th><th>Transposition</th><th>Law</th></tr>
<tr><td>6.1</td><td>‘Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..’</td><td>Yes</td><td>‘Slovenske železnice must ensure the provision within its internal organisation separate accounts for the following activities:
• the commercial public services of maintaining and managing the public railway infrastructure and operating transport on it
• the activity of transporting passengers in inland and cross-border regional transport;
• the activity of goods transport.
‘Slovenske železnice must ensure the public disclosure of separate accounting statements (final accounts and balance sheets) for the aforementioned activities in accordance with regulations governing companies.’</td></tr>
<tr><td>6.1(a)</td><td>Requirement to publish separate accounts</td><td>Yes</td><td>‘Slovenske železnice must ensure the public disclosure of separate accounting statements (final accounts and balance sheets) for the aforementioned activities in accordance with regulations governing companies.’</td></tr>
<tr><td>6.1</td><td>‘Public funds paid to one of these two areas of activity may not be transferred to the other.’</td><td>No</td><td>We did not identify any legislation reflecting this point of the directives.</td></tr>
<tr><td>6.1</td><td>‘The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.’</td><td>No</td><td>We did not identify any legislation reflecting this point of the directives.</td></tr>
<tr><td>6.2</td><td>‘Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.’</td><td>Yes</td><td>SŽ separated its activities into separate business units in 2003.</td></tr>
<tr><td>9.4</td><td>Separate profit and loss accounts and either balance sheets or annual statements of assets and liabilities kept and published for freight transport services.</td><td>Yes</td><td>‘Slovenske železnice must ensure the provision within its internal organisation separate accounts for the following activities:
• the commercial public services of maintaining and managing the public railway infrastructure and operating transport on it</td></tr>
</table>

Article	Issue	Transposition	Law
			• the activity of transporting passengers in inland and cross-border regional transport; • the activity of goods transport. Slovenske železnice must ensure the public disclosure of separate accounting statements (final accounts and balance sheets) for the aforementioned activities in accordance with regulations governing companies.’
9.4(a)	Requirement to publish separated accounts	Yes	‘Slovenske železnice must ensure the public disclosure of separate accounting statements (final accounts and balance sheets) for the aforementioned activities in accordance with regulations governing companies.’
9.4	Funds paid for activities relating to the provision of passenger services as public service remits must be shown separately in the accounts	Yes	‘The carrier, which has received compensation for expenses incurred in accordance with the provisions of the preceding paragraphs of this article shall keep separate records, allowing the separate accounting for the activity for which compensation is received and transparency in the use of this allowance.’
9.4	These funds must not be transferred to activities relating to the provision of other transport services or any other business.	No	We did not identify any legislation reflecting this point of the directives.

24.4.2 In our opinion, the requirements of the directives on accounting separation have not been fully transposed into Slovenian law. Specifically:

- Article 6.1 – we did not identify any legislation relating to the transfer of state funding between transport and infrastructure activities or the way in which accounts are kept in relation to this.
- Article 9.4 – We did not identify any legislation relating to the prohibition on the transfer of PSO funding.

24.4.3 We understand that it is the responsibility of the regulatory agency within the Ministry of Transport to monitor compliance with accounting separation requirements.

24.5 Sources of Information

24.5.1 Slovenian Laws and Regulations:

- Railway Transport Act, 1999 (ZzeIP)[403]
- Law on the transformation and privatisation of the public enterprise Slovenske Zeleznice (2003) [404]

24.5.2 Annual accounts:

- Slovenske Zeleznice Annual Reports (2004 – 2007)

1.3.1 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007

[403] SZ website, http://www.slo-zeleznice.si/en/press_centre/main_documents/, February 2009
[404] Zakon o preoblikovanju in privatizaciji javnega podjetja slovenske zeleznice

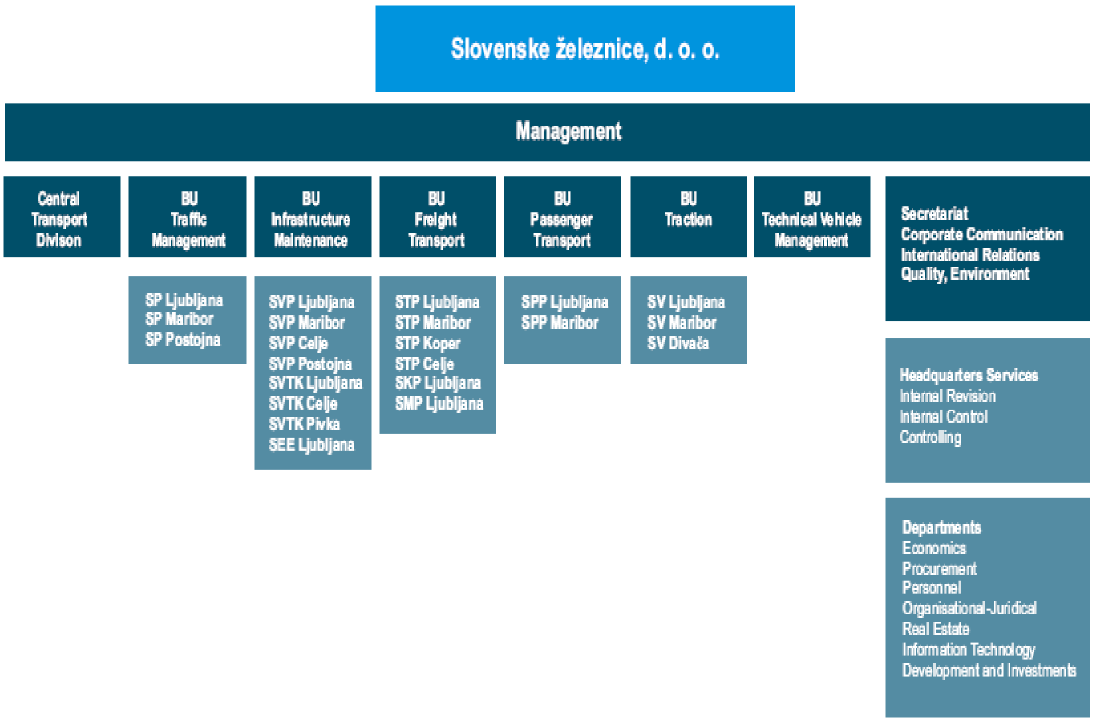
- Correspondence with Ministry of Transport, February – March 2009
- Correspondence with SŽ

24.6 Slovenske Zeleznice (SŽ)

24.6.1 Slovenske Železnice (SŽ) is the only rail operator with a license to operate in Slovenia. The company is integrated, with separate passenger, freight and infrastructure divisions (See Figure 15 below).[405]

24.6.2 SŽ is state-owned but legislation was passed in 2003 allowing it to partially privatise its subsidiaries, although the state is required to retain a majority holding.[406]

Figure 15: SŽ Company structure[407]



24.6.3 Our review of SŽ's annual reports is presented in Table 294 below.

Table 294 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In the opinion of the auditors, the company's financial statements and the consolidated financial statements, as well as the financial statements of the stated public utility services, represent a true and fair presentation of the financial status of the corporate entity Slovenske železnice d.o.o. and the Group

[405] Correspondence with Ministry of Transport, February – March 2009
[406] Zakon o preoblikovanju in privatizaciji javnega podjetja slovenske zeleznice
[407] SZ website, http://www.slo-zeleznice.si/, February 2009

		Slovenske železnice on December 3, 2007, as well as their operating profit/loss and financial flow for the ended fiscal year, in accordance with Slovenian accounting standards. The Financial Report is in accordance with the revised financial statements.' In Revizija d.o.o
Transparency	Good	Accounts are produced for the SŽ Group, including a consolidated P&L and balance sheet. Income statements are produced for each of the infrastructure, passenger rail and freight rail divisions.
Visibility of transfers from/to other rail businesses	Partial	Separate cash flow statements and statements of changes in equity are produced for each of the SŽ subsidiaries. These are useful to identify flows of cash between the different rail businesses (operational subsidiaries) under SŽ's control. However, there do not appear to be any entries relating to cashflows between SŽ and other companies. Further, as there are no other railway undertakings operational in the market, it is unlikely that these transfers are occurring domestically.
Visibility of intra-group transfers	Partial	There is a breakdown of revenues which shows income from other companies within the group, however, this is not broken down into the different activities and so intragroup transfers are not visible.[408]

24.6.4 Our review of SŽ's compliance with the requirements of Directive 2001/12/EC is provided in Table 295 below.

Table 295 Company compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	Separate P&Ls and balance sheets are presented for infrastructure, freight and passenger activities.
6.1(a)	Requirement to publish separate accounts	Yes	The company's annual reports are published and are available for download on the company website.
6.1	'Public funds paid to one of these two areas of activity	Yes	We have not identified any evidence suggesting the transfer of public funds

[408] SZ Annual Reports 2007, p 138

	may not be transferred to the other.’		between infrastructure and transport services is occurring.
6.1	‘The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.’	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by SŽ. Please see chapter 29 for further information on the requisite information.
6.2	‘Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.’	Yes	SŽ was converted to a holding structure in 2003, with separate subsidiaries for freight transport, passenger transport and infrastructure.
9.4	Separate profit and loss accounts and either balance sheets or annual statements of assets and liabilities kept and published for freight transport services.	Yes	Separate P&L and balance sheet presented for freight services.
9.4(a)	Requirement to publish separated accounts	Yes	The company’s annual reports are published and are available for download on the company website.
9.4	Funds paid for activities relating to the provision of passenger services as public service remits must be shown separately in the accounts	No	A paragraph in the Slovenian version of SŽ’s annual reports details the amount of state support granted to the company and a breakdown of its uses.[409] However, there is no separation of PSO funding by contract.
9.4	These funds must not be transferred to activities relating to the provision of other transport services or any other business.	Yes	We have not encountered any evidence suggesting that PSO passenger funds are being transferred.

24.6.5 In our opinion, SŽ are not compliant with the requirements of the accounting separation directives. Specifically;

- Article 6.1 – The accounts do not reflect the prohibition on the transfer of public funds. There is very little detail of transactions between the business units and of the amounts of public funds actually received. Statutory accounts are generally not sufficient to reflect the prohibition on the transfer of public funding.
- Article 9.4 – There is no separation of the amounts of PSO funding by individual contracts, only a lump sum for transport is given.

24.6.6 Details of the public funding made available to SŽ are shown in Table 296 below.

[409] SZ Annual Reports 2007, p 20

Table 296: Public funding made available to SŽ

€ million	2004	2005	2006	2007
PSO – passenger transport	34.4	34.3	37.9	40.7
Infrastructure funding	74.9	86.3	93.9	101.0
Other[410]	5.0	1.1	-	-

24.6.7 Summary operational and financial data is presented for the SŽ Group in Table 297 below. A corresponding set of financial ratios is provided in Table 298.

[410] Funds obtained from the state for realization of (restructuring) downsizing the number of employees.

Table 297 Summary operating and financial data for the SŽ Group

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	289	291	321	352
Revenue from Passenger transport	63	63	70	73
Revenues from Freight transport	117	115	121	129
Revenue from infrastructure charges	76	87	94	101
Total subsidisation	34	34	38	41
Wages, Salaries, Social Security Payments	162	172	182	187
Operating costs	278	300	304	331
Operating profit	12	-8	17	21
Financial expenses	11	6	7	0
P&L on ordinary activities before tax	1	-15	10	23
Total fixed assets	281	320	334	818
Long term receivables	0	0	0	0
Total current assets	130	98	115	118
Trade debtors	0	0	0	0
Other debtors	0	0	0	0
Current asset investments	0	0	0	0
Cash at bank and in hand	0	0	0	0
Creditors: <1yr (Current Liabilities)	76	113	137	725
Creditors: >1yr	246	232	258	150
Provisions for liabilities and charges	0	0	0	0
Equity	89	73	54	62
	No. / Km			
Average no. employees	8,227	8,089	8,084	7,936
Passenger-kilometres (m)	764	777	793	812
Tonne-kilometres (m)	3,463	3,579	3,705	3,944
Managed kilometres	0	0	0	0

Table 298 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	289	291	321	352
Net profit (€m)	1	-15	10	23
Operating profit (€m)	12	-8	17	21
Total assets (€m)	411	418	449	937
Profitability				
Operating profit margin	4%	-3%	5%	6%
Net margin	0%	-5%	3%	7%
Return on assets	0%	-4%	2%	3%
Return on equity	1%	-20%	19%	38%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	1.2	1.1	1.3	2.6
Cost per staff member (€ '000)	34	37	38	42
Staff costs as a proportion of operating costs	58%	57%	60%	57%
Unit operating costs (€ '000)	363	386	383	408
Total Revenue per Passenger Km (€)	0.38	0.38	0.40	0.43
Total Revenue per Freight Km (€)	0.08	0.08	0.09	0.09
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	246	232	258	150
Debt / Total liabilities	76%	67%	65%	17%
Debt: Equity ratio	2.8	3.2	4.8	2.4
Quick ratio	0.0	0.0	0.0	0.0
Current ratio	1.7	0.9	0.8	0.2
Debt service coverage ratio	1.1	-1.4	2.5	-
Public funding				
Total public income (€m)	34	34	38	41
Public funding / costs	12%	11%	12%	12%
Public funding / revenue	12%	12%	12%	12%

24.6.8 The tables above show that SŽ was profitable in 2006 and 2007 and that total revenues have been increasing annually over the four year period. The total debt of the company seemed to decreased considerably in 2007. In this case, the representation of total debt is misleading. Specifically, the actual liabilities of the company increased considerably during that year (as can be seen in Table 297) however, due to the way in which it was categorised, much of this does not get counted in our calculated total debt figures.

24.6.9 The main components increasing the company's liabilities are:

- Other financial liabilities; Changed from €80m to €154m from 2006 – 2007. Principally this liability consists of €80m for refinancing existing liabilities and €74m for the purchase of locomotives.
- Other long term operating liabilities; This changed from €53,000 to €445m from 2006 to 2007. We understand that this was as a result of building 'facilities for transport and communications'.[411]
- Short term operating liabilities also increased from €74m to €109m and short term deferred income increased from €3m to €45m between 2006 and 2007.

24.6.10 One would expect that the income from infrastructure charges received by SŽ consists purely of revenue paid by its other business units, however, this is not confirmed in the annual reports.

24.6.11 We note that the public funding figures given in the tables are not inclusive of infrastructure funding, only passenger PSO compensation.

24.7 Conclusions

24.7.1 From the information available, we can conclude that:

- The directives are not fully transposed into domestic legislation. We were unable to identify legislation reflecting the requirement of the directives to prohibit the transfer of state funding, PSO or otherwise.
- SŽ is not wholly compliant with the requirements of the directives as there is not enough detail of transactions between the business units providing the infrastructure, passenger and freight activities of the company. Further, there is no disaggregation of PSO funding by individual contracts – it is presented as a lump sum.

[411] SŽ Annual Report 2007, p 100

25 SPAIN

25.1 Industry overview

25.1.1 The Railway Act 39/2003 sets out the institutional structure of the Spanish rail sector where transport operations are separated from infrastructure services in legal, accounting and organisational terms. This was achieved by legally separating the infrastructure and operational activities of the predecessor company RENFE in January 2005. RENFE Operadora is now the company responsible for providing national passenger and freight services, while Administrador de Infraestructuras Ferroviarias (ADIF) is the company responsible for the national railway infrastructure network (with the exception of a few small regional networks - see 1.1.3).

25.1.2 The Ministry of Public Works (Ministerio de Fomento) oversees RENFE Operadora and ADIF. Both are public companies and perform their services in accordance with their public mandate.

25.1.3 In addition, there are three main regional rail operating companies, Euskotren (which operates in the Basque country), FGC (which operates in Catalonia), and FEVE (which serves several regions, mainly in the north of Spain). FEVE is state-owned and is also overseen by the Ministry of Public Works as it provides some cross-regional services. FEVE has been officially exempted from complying with the European Directive but, together with the Spanish government, it is currently preparing a new regulation which is expected to be introduced in 2010.

25.1.4 By law, RENFE Operadora is the exclusive provider of national rail passenger transport while FEVE, FGC and Euskotren are the exclusive providers of rail passenger services on their regional networks. However, Spain’s rail freight transport market has been opened to competition since 2006. Access to Spain's domestic rail freight transport market is achieved by setting up a Spanish rail freight operator and obtaining an operating license and safety certificate.

25.1.5 According to the General Directorate for Railways of the Ministry of Public Works, 11 private rail freight companies are licensed to operate but only six have obtained the necessary safety certificate. These private companies account for an estimated 5% of the freight tonnes transported in Spain. This low level of market penetration may be attributed to the highly competitive nature of road transport. However, a recent report on the liberalisation of the rail freight market in Spain, commissioned by the national association of private rail freight companies[412] identifies several contributing factors to the limited private sector entry into the market. Some of these factors include the following.

- Transaction costs (mainly lengthy processing times) associated with obtaining the necessary operating licenses and safety permits.
- Difficulties associated with purchasing rolling stock and locomotives. In the absence of a secondary market for locomotives in Spain, new entrants face a waiting list of between one and two years for the delivery of new trains. In addition, the technical approval for models other than those currently used by RENFE may take an additional 12 months.
- While RENFE Operadora owns a large fleet of rolling stock, there isn´t a clear policy for the leasing or sale of such rolling stock. The revenues generated by the sale of rolling stock are kept by RENFE Operadora while the purchase and renewal of new rolling stock is financed with public budget funds.

[412] “Contribución a la potenciación del transporte de mercancías por ferrocarril en España: el papel de los operadores privados”, April 2008

25.1.6 The share of the Spanish freight market transported by rail fell from 9.3 per cent in 1995 to 4.6 per cent in 2005[413]. The modal share of rail passenger transport was 5.3 per cent in 1995, but fell to 4.6 per cent by 2004[414]. The government would like to increase the role of the railways in both passenger and freight transport. It plans to build 10,000 kms of new high speed lines, 7,000 of which will be used for transporting both passengers and freight. In addition, in December 2008, the government announced plans to develop a new regulation that will allow private freight companies to perform some of the ancillary services previously contracted out to ADIF. The regulation will also ensure that ADIF makes the network fully accessible to third-party freight transport operators.

25.2 List of Railway Undertakings*

Passenger	Freight	Infrastructure manager
RENFE Operadora FEVE FGC EUSKOTREN	RENFE Operadora FEVE FGC EUSKOTREN	ADIF FEVE FGC

* Only companies with annual revenues greater than €50 million

25.3 Industry Regulator & Government Departments

25.3.1 Regulatory Authorities

- The rail "regulator" – (*Comité de Regulación Ferroviaria*)[415]
- The rail safety agency – (*Agencia Estatal de Seguridad en el Transporte Terrestre*)

The Comité de Regulación Ferroviaria (CRF) is part of the Ministry of Public Works and was set up in 2005. A new law to reform the CRF is expected to be submitted to Parliament before the summer of 2010. While the CRF will remain part of the Ministry of Public Works, it will have more competences, especially to decide on disputes between the infrastructure manager and train operators (e.g. disputes related to discrimination, access charges, ancillary services, etc.)

25.3.2 Government departments

- Ministerio de Fomento – Ministry of Public Works[416]

25.4 Legal Framework

25.4.1 The Railways Act 39/2003 governs the rail industry but only applies to the national operators RENFE and ADIF. As mentioned above, FEVE was officially given an exemption from complying with this law and is in the process of designing a new regulation in conjunction with the Spanish government. The other regional

[413] "Rail liberalisation index 2007 – Market opening: comparison of the rail markets of the member states of the European Union, Switzerland & Norway", IBM, October 2007

[414] "Rail liberalisation index 2007 – Market opening: comparison of the rail markets of the member states of the European Union, Switzerland & Norway", IBM, October 2007

[415] See: www.fomento.es/MFOM/LANG_CASTELLANO/DIRECCIONES_GENERALES/ORGANOS_COLEGIADOS/CRF/

[416] See www.fomento.es

operators Euskotren and FGC are not covered by this legislation as the Spanish central government is not responsible for the regional railway networks.

25.4.2 Translation of relevant parts of the law (unofficial):

The Railways Act 39/2003, Introducción[417]

The law regulates the administration of the railway infrastructure and instructs the public enterprise National Network of the Spanish Railways (RENFE) to be renamed Administrator of railway infrastructures and also integrates the current Manager of railway infrastructures (AGIF). The public enterprise "Administrador de Infraestructuras Ferroviarias" is allowed to build, with the approval of the Infrastructure Ministry, railway infrastructures with its own resources. In addition, it will manage the infrastructures of its ownership.

The Act also created a new public corporate entity called RENFE Operadora, to provide rail transport services.

SECCION III Artículo 28 Real Decreto 2396/2004, de 30 de diciembre[418].

"… In addition, apply a system of separate accounting for their activities regarding the provision of services of rail freight or passenger …"

SECCION III Artículo 45 Real Decreto 2387/2004, de 30 de diciembre[419]

"…The administration of the railway infrastructure will apply, in addition to the current accounting rules, a system of separate accounts for the different activities like construction of railway infrastructures, administration of them or the provision of additional services…"

25.4.3 In the table below we indicate how the above legislation complies with the relevant articles of the underlying EU directive.

Table 299 Transposition of EC Directive 2001/EC/12

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are **kept** (emphasis added)…, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	No	We did not encounter any legislation relating to this point.
6.1(a)	Requirement to publish separated accounts.	No (i)	We did not encounter any legislation relating to this point.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	No	We did not encounter any legislation relating to this point.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	We did not encounter any legislation relating to this point.
6.2	'Member States may also provide that	Yes	'The law regulates the

[417] Please see http://www.fomento.es/NR/rdonlyres/432E286F-0172-422795DCFA8F7B5F776C/12102/leysectorferroviario.pdf
[418] Please see http://noticias.juridicas.com/base_datos/Admin/rd2396-2004.html
[419] http://www.fomento.es/NR/rdonlyres/3D7B4A62-0034-44EC-90DA 7D3B4099753E/12103/reglamentosectorferroviario.pdf

	this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'		administration of the railway infrastructure and instructs the public enterprise National Network of the Spanish Railways (RENFE) to be renamed Administrator of railway infrastructures and also integrates the current Manager of railway infrastructures (AGIF). The public enterprise "Administrador de Infraestructuras Ferroviarias" is allowed to build, with the approval of the Infrastructure Ministry, railway infrastructures from its own resources. In addition, it will manage the infrastructures of its ownership. The Act also created a new public corporate entity called RENFE Operadora, to provide rail transport services.' *(Introduction, The Railways Act 39/2003)*
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be **kept** (emphasis added),… for businesses relating to the provision of rail freight transport services.'	Partial (ii)	'A separate accounting regime will be applied to passenger transport and freight transport services.' *(Article 28, Real Decreto 2396/2004)*
9.4(a)	Requirement to publish separated accounts	No	There is no stipulation that accounts must be published.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Partial (iii)	'… public services and services provided under competition should be differentiated in the accounts' *(Article 28, Real Decreto 2396/2004)*
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	No	We did not encounter any legislation relating to this point.

Notes:

(i) The legislation does not specify that separate profit and loss accounts and balance sheets must be produced. However, it does refer to the legal separation of the predecessor company, RENFE, into two separate companies, which effectively implies that the accounts must be separated. Similar legislation requiring vertical separation is also in place in the Basque Country where Euskotren has responsibility for train services and ETS manages the rail infrastructure.

(ii) The legislation does not specify separate profit and loss accounts and balance sheets but just refers to 'a system of separate accounting' for the undertakings.

(iii) There is no specific reference to separating the funds paid for these activities but the law indicates that overall these types of activities should be separated.

1.1.1 IIt is unclear from the legislation who is responsible for overseeing its implementation. There is no reference to a regulator or other body who will perform this function.

1.1.2 In our view, Spain does not appear to have fully transposed the EU directive on accounting separation. At a national level, the rail infrastructure is managed and transport services are provided by separate companies, ADIF and RENFE Operadora, respectively. RENFE Operadora is required to have a "separate accounting regime" for freight and passenger transport services and separately account for public services, although the wording is unclear. However, importantly, the regulation does not explicitly prohibit the transfer of funds between public passenger transport services and other transport services.

1.1.3 As explained, FEVE has been exempted from complying with the Directive. The other regional companies are subject to the regulation of regional governments. However, according to one legal opinion, these companies should still be compliant with the Directive. The Basque government has legally separated infrastructure management and transport services[420], but it has not included any provision regarding accounting separation between passenger and freight transport services or public service funds. We assume that the Catalan government has not introduced legislation to separate infrastructure management and transport services into separate entities or included any provision regarding accounting separation between freight and passenger transport services, based on our review of their accounts.

25.5 Sources of Information

25.5.1 Laws and regulations:

- LEY 39/2003, de 17 de noviembre, del Sector Ferroviario.

  (http://www.fomento.es/MFOM/LANG_CASTELLANO/DIRECCIONES_GENERALES/FERROCARRILES/_INFORMACION/NORMATIVA/leysectorferroviario-pdf.htm)

- SECCION III Artículo 28 Real Decreto 2396/2004, de 30 de diciembre. (http://noticias.juridicas.com/base_datos/Admin/rd2396-2004.html)

- SECCION III Artículo 45 Real Decreto 2387/2004, de 30 de diciembre (http://www.fomento.es/MFOM/LANG_CASTELLANO/DIRECCIONES_GENERALES/FERROCARRILES/_INFORMACION/NORMATIVA/reglamentosectorferroviario-pdf.htm)

25.5.2 Annual accounts:

- RENFE financial statements for 2004-2006 obtained from www.renfe.es; for 2007 they were obtained directly from the company.
- FEVE management accounts for 2004-2007 obtained directly from the company.
- FGC financial statements for 2004-2007 obtained from www.fgc.es
- EUSKOTREN management accounts for 2004-2007 obtained directly from the company.
- ADIF financial statements for 2004-2007 obtained from www.adif.es

25.5.3 Public Funding:

[420] Decreto 118/2006, de 6 de junio, por el que se autoriza la reducción de capital de Eusko Trenbideak / Ferrocarriles Vascos, S.A. mediante devolución de aportaciones y se adscribe y encomienda a Red Ferroviaria Vasca-Euskal Trenbide Sarea la administración de las infraestructuras ferroviarias preexistentes. Source: Boletín oficial del País Vasco, 30/6/2006.

- FEVE - information obtained directly from the company.
- EUSKOTREN - information obtained directly from the company.

25.5.4 Interviews

- José Antonio Magdalena Anda, *Legalia Abogados*
- Nieves Acuña Blanco, *FEVE*
- Rafael García Alcolea, *Ministerio de Fomento*
- V. López, *Euskotren*

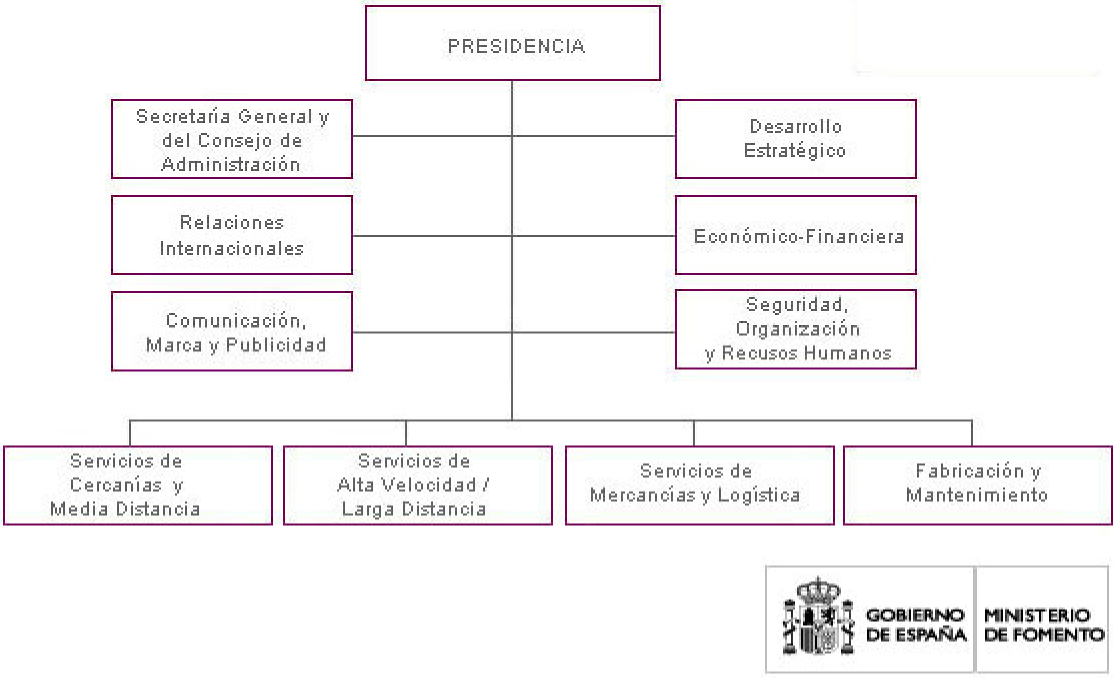
25.6 RENFE Operadora

25.6.1 RENFE Operadora is the national incumbent rail operator in Spain. It is an integrated company providing both passenger and freight services and it is owned by the Spanish Government. It was separated from the rail infrastructure management business in January 2005. RENFE Operadora owns the rolling-stock and remains responsible for the planning, marketing and operation of passenger and freight services, although it no longer has a legal monopoly.

25.6.2 The company inherited the business units of its predecessor RENFE which were responsible for the operation of a range of passenger and freight services. In January 2006, as required under the performance service framework contract that the company has with the government (the *Contrato-programa Estado-RENFE 2006-2010*), Renfe Operadora restructured its business units into four, as follows:

- *Dirección General de Servicios Públicos de Cercanías y Media Distancia:* responsible for commuter services (Cercanías), medium-distance high-speed rail AVE services and medium-range regional services (Regionales and Media Distancia).
- *Dirección General de Servicios de Larga Distancia:* responsible for long-distance intercity and high-speed rail services (except medium-distance AVE services and Media Distancia, which is managed by the business unit above).
- *Dirección General de Servicios de Mercancías y Logística:* responsible for freight services.
- *Dirección General de Fabricación y Mantenimiento:* responsible for rolling stock maintenance and manufacture (also known as Integria)

Figure 16 Organisational Structure of RENFE Operadora



25.6.3 A condition of the Contrato-programa Estado-RENFE 2006-2010 is that Renfe Operadora must produce accounts separated by business unit. It is therefore obliged to present to the Commission on Control and Monitoring of the Contrato-programa a set of criteria for allocating costs and producing the accounts for each business unit. These criteria has been discussed and approved by the Public Auditor and the Commission.

25.6.4 It is expected that in 2009, five sets of separated accounts will be published for RENFE Operadora for the financial year ending 2008, including comparators for 2007. This will include profit and loss accounts and balance sheets for the four separate business units plus a set of consolidated accounts. Consequently, a set of accounts for the freight transport business will be available.

25.6.5 Quality of financial statements

Table 300 Quality of financial statements

Issue	Quality	Comment
Audit Assurance	Good	"In our opinion the 2007 annual accounts of Renfe Operadora give an accurate picture of the financial situation and the financial results" [421] INTERVENCIÓN GENERAL DE LA ADMINISTRACIÓN DEL ESTADO, 2007
Transparency	Good	The company's financial statements are drawn up in accordance with the Plan General Contable de España (Spanish General Accounting Plan).
Visibility of transfers from/to other rail businesses	Good	Track access charge payments to the infrastructure manager (ADIF) are clearly disclosed.
Visibility of intra-group transfers	N/A	Not part of a group

25.6.6 Compliance with Directive

Table 301 Compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	ADIF and RENFE Operadora are legally separate and publish separate accounts which include profit & loss accounts and balance sheets.
6.1(a)	Requirement to publish separated accounts	Yes	These are available for download on their websites.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	RENFE Operadora pays track-access charges to ADIF. This provides an opportunity for cross-subsidisation, if these charges do not reflect costs, however it is not possible to determine whether this is the case and we have not encountered any evidence suggesting this is occurring.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in

[421] 2007 Cuentas anuales RENFE, p. 84

			Spain and is not produced by RENFE. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	ADIF and RENFE Operadora are separate companies providing infrastructure management and train services respectively.
9.4	Separate P&L and balance sheets kept and published for freight operations.	No	RENFE Operadora published a separate profit & loss account for their freight operations, but not a separate balance sheet for the 2007 financial year. However, we understand that they intend to publish full separated accounts for 2008 and restate the 2007 accounts. This is in order to fulfill the requirements of the *Contrato-programa Estado-RENFE 2006-2010.*
9.4(a)	Requirement to publish separated accounts	Yes	These are available for download on their websites.
9.4	Funds for PSO transport activities shown separately in accounts	No	The state provides funding to Renfe for the provision of short and medium distance train services under PSO contracts. This is separately disclosed but the information is not spilt further by specific PSO contract.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Spain. Hence we have not encountered any evidence suggesting this is occurring.

25.6.7 RENFE Operadora complies with the vertical accounting separation requirements of the Directive, but, based on the 2007 accounts, had failed to comply with the horizontal accounting separation requirements of the Directive. However, we understand this will be resolved going forward. As in most other countries, the statutory accounting requirements are not sufficient to be able to determine whether or not public funds are being transferred either vertically or horizontally.

25.6.8 Public funding

Details of public funding made available to RENFE are shown in the table below.

Table 302 Public Funding

Year	2005		2006		2007	
Type	Amount	Use of funds	Amount	Use of funds	Amount	Use of funds

Public Service Obligation (PSO) Compensation					€326.2	Public service contract (for short & medium-distance services)
Loans						
Equity						
Grants	€249m	Regional and commuter rail services	€300.5 €404m	Long-distance and commuter rail services Investment plans	€404.m €30.8m	Investment plans Human resources
Debt Write-offs						
Other	€205.8m	Compensate losses from remaining activities	€257.7m	Compensate losses from remaining activities	€247.6m	Compensate losses from remaining activities

Source: RENFE Operadora annual financial statement.

Note that the Spanish government has provided "compensation" for the losses incurred by RENFE Operadora, as a result of performing its remaining activities. Consequently, we understand that this funding is not intended for a particular purpose and is just ensuring that the company manages to cover all of its costs.

25.6.9 Performance – Freight & passenger services

The performance of RENFE's combined freight and passenger businesses is shown in the tables below.

Table 303 Summary Financial Data[422]

[422] Figures for 2004 are not reported due to the fact that in 2004 *Renfe Operadora* and *ADIF* were still integrated as a single company at that time.

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	-	1,884.6	2,055.3	2,155.1
Passenger revenue	-	1,145.2	1,233.1	1,285.9
Freight revenue	-	322.7	322.6	336.1
Total subsidisation	-	454.8	558.2	604.7
Wages, Salaries, Social Security Payments	-	635.0	652.5	731.6
Operating costs	-	1,808.5	1,943.9	2,018.1
Operating profit	-	76.1	111.4	137.0
Financial expenses	-	273.2	322.9	375.9
P&L on ordinary activities before tax	-	(197.1)	(211.5)	(238.9)
Total fixed assets	-	3,404.0	4,163.6	4,975.5
Long term receivables	-	172.7	168.3	67.8
Total current assets	-	454.9	739.5	1,267.8
Trade debtors	-	145.6	143.2	140.4
Other debtors	-	-	-	-
Current asset investments	-	-	-	-
Cash at bank and in hand	-	5.6	0.4	0.5
Creditors: <1yr (Current Liabilities)	-	993.7	1,195.1	1,438.7
Creditors: >1yr	-	1,740.5	2,118.4	2,666.6
Provisions for liabilities and charges	-	53.1	89.4	104.7
Equity	-	1,246.4	1,670.2	2,102.5
	No. / Km			
Average no. employees	-	15,061	14,723	14,338
Passenger-kilometres (m.)	-	19,808	20,260	19,966
Tonne-kilometres (m.)	-	11,071	11,012	10,547

Source: RENFE Operadora annual financial statements

Table 304 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	-	1,884.6	2,055.3	2,155.1
Net profit (€m.)	-	(197.1)	(211.5)	(238.9)
Operating profit (€m.)	-	76.1	111.4	137.0
Total assets (€m.)	-	4,031.6	5,071.4	6,311.1
Profitability				
Operating profit margin	-	4.0%	5.4%	6.4%
Net margin	-	-10.5%	-10.3%	-11.1%
Return on assets	-	-4.9%	-4.2%	-3.8%
Return on equity	-	-15.8%	-12.7%	-11.4%
Viability ratio	-	1.04	1.06	1.07
Efficiency				
Liabilities / operating costs	-	1.5	1.8	2.1
Cost per staff member (€ '000)	-	120.1	132.0	140.7
Staff costs as a proportion of operating costs	-	35.1%	33.6%	36.3%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger-Km (€)	-	0.06	0.06	0.06
Total Revenue per Freight-Km (€)	-	0.03	0.03	0.03
Indebtedness				
Total debt of the company (€m.)	-	2,734.2	3,313.5	4,105.3
Debt / Total liabilities	-	98.1%	97.4%	97.5%
Debt: Equity ratio	-	2.2	2.0	2.0
Quick ratio	-	0.2	0.1	0.1
Current ratio	-	0.5	0.6	0.9
Debt service coverage ratio	-	0.3	0.3	0.4
Public funding				
Total public income (€m.)	-	454.8	558.2	604.7
Public funding / costs	-	25.1%	28.7%	30.0%
Public funding / revenue	-	24.1%	27.2%	28.1%

Source: RENFE Operadora annual financial statements, Frontier analysis [423]

[423] Figures for 2004 are not reported due to the fact that in 2004 *Renfe Operadora* and *ADIF* were still an integrated company and therefore the figures would not be comparable.

25.6.10 While revenues have been growing with a 14 per cent increase between 2005 and 2007, the combined rail freight and passenger business is loss-making in net terms. Consequently, the return on the asset base is also negative. Public funding accounts for approximately 8% of the growth in revenues. The cost per staff member has increased quite substantially between 2005 and 2007, while the number of personnel has declined slightly. This explains why staff costs have grown as a proportion of total operating costs.

25.6.11 The figures also suggest that the company is relatively highly indebted, with a debt to equity ratio of 2.0 in 2007. However, the current ratio almost doubled between 2005 and 2007 to 0.9, suggesting that the company is now in a better position to service its short term liabilities.

25.6.12 Performance – Passenger services

The data for RENFE Operadora's rail passenger transport business is incomplete, due to the absence of a separate balance sheet in the statutory accounts.

Table 305 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	-	1,488.9	1,629.4	1,705.3
Passenger revenue	-	1,145.2	1,233.1	1,285.9
Total subsidisation	-	249.0	300.5	326.2
Wages, Salaries, Social Security Payments	-	364.9	379.9	407.2
Operating costs	-	1,308.9	1,448.4	1,521.7
Operating profit	-	(9.2)	(20.9)	(42.0)
Financial expenses	-	1.5	35.7	46.8
P&L on ordinary activities before tax	-	(41.8)	(89.0)	(122.5)
Total fixed assets	-	-	-	-
Long term receivables	-	-	-	-
Total current assets	-	-	-	-
Trade debtors	-	-	-	-
Other debtors	-	-	-	-
Current asset investments	-	-	-	-
Cash at bank and in hand	-	-	-	-
Creditors: <1yr (Current Liabilities)	-	-	-	-
Creditors: >1yr	-	-	-	-
Provisions for liabilities and charges	-	-	-	-
Equity	-	-	-	-
	No. / Km			
Average no. employees	-	12,655	12,461	12,272
Passenger-kilometres	-	19,808	20,260	19,966

Source: RENFE Operadora annual financial statements

Table 306 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	-	1,488.9	1,629.4	1,705.3
Net profit (€m.)	-	(41.8)	(89.0)	(122.5)
Operating profit (€m.)	-	(9.2)	(20.9)	(42.0)
Profitability				
Operating profit margin	-	-0.6%	-1.3%	-2.5%
Net margin	-	-2.8%	-5.5%	-7.2%
Viability ratio	-	1.14	1.13	1.12
Efficiency				
Cost per staff member (€ '000)	-	103.4	116.2	124.0
Staff costs as a proportion of operating costs	-	27.9%	26.2%	26.8%
Total Revenue per Passenger-km (€)	-	0.06	0.06	0.06
Indebtedness				
Debt service coverage ratio	-	(6.3)	(0.6)	(0.9)
Public funding				
Total public income (€m.)	-	249.0	300.5	326.2
Public funding / costs	-	19%	21%	21%
Public funding / revenue	-	17%	18%	19%

Note that a separate balance sheet for passenger operations was not provided, therefore no balance sheet amounts or ratios based on balance sheet amounts are shown here.

Source: RENFE Operadora annual financial statements, Frontier analysis

25.6.13 While revenues have grown between 2005 and 2007, this part of the business has been consistently loss-making since 2004. However, the net margin is only in single negative figures, whilst the net margin earned from freight transport is in double negative figures. Staff costs accounted for approximately 25 – 25% of operating costs and growth in public funding accounted for about a third of the increase in total revenues.

25.6.14 Performance – Freight services

The data for RENFE Operadora's rail freight business is, for the same reason, also incomplete, due to the absence of a separate balance sheet in the statutory accounts.

Table 307 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	-	351.53	351.7	370.66
Freight revenue	-	322.7	322.6	336.12
Total subsidisation	-	0	0	0
Wages, Salaries, Social Security Payments	-	120.65	118.18	119.23
Operating costs	-	376.04	381.56	378.91
Operating profit	-	-24.51	-29.86	-8.25
Financial expenses	-	6.31	8.7	8
P&L on ordinary activities before tax	-	-60.56	-75.73	-55.86
Total fixed assets	-	-	-	-
Long term receivables	-	-	-	-
Total current assets	-	-	-	-
Trade debtors	-	-	-	-
Other debtors	-	-	-	-
Current asset investments	-	-	-	-
Cash at bank and in hand	-	-	-	-
Creditors: <1yr (Current Liabilities)	-	-	-	-
Creditors: >1yr	-	-	-	-
Provisions for liabilities and charges	-	-	-	-
Equity	-	-	-	-
	No. / Km			
Average no. employees	-	2,406	2,262	2,066
Tonne-kilometres (m.)	-	11,071	11,012	10,547

Source: RENFE Operadora annual financial statements

Table 308 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	-	351.5	351.7	370.7
Net profit (€m.)	-	(60.6)	(75.7)	(55.9)
Operating profit (€m.)	-	(24.5)	(29.9)	(8.3)
Profitability				
Operating profit margin	-	-7.0%	-8.5%	-2.2%
Net margin	-	-17.2%	-21.5%	-15.1%
Viability ratio	-	0.9	0.9	1.0
Efficiency				
Cost per staff member (€ '000)	-	156.3	168.7	183.4
Staff costs as a proportion of operating costs	-	32.1%	31.0%	31.5%
Total Revenue per Tonne-km (€)	-	0.03	0.03	0.03
Indebtedness				
Debt service coverage ratio	-	(3.9)	(3.4)	(1.0)
Public funding				
Total public income (€m.)	-	0.0	0.0	0.0
Public funding / costs	-	0%	0%	0%
Public funding / revenue	-	0%	0%	0%

Note that a separate balance sheet for freight operations was not provided, therefore no balance sheet amounts or ratios based on balance sheet amounts are shown here.

Source: RENFE Operadora annual financial statements, Frontier analysis

25.6.15 Rail freight appears to constitute a much smaller proportion of the business than passenger services, i.e. it accounted for only 17% of the company's revenues in 2007. While there has been some growth in revenues, especially between 2006 and 2007, this part of the business also appears to have been consistently loss-making since 2004. Staff costs also represented a higher proportion of operating costs, in the range 30 – 35%.

25.7 FEVE

25.7.1 FEVE (Ferrocarriles Españoles de Vía Estrecha, meaning "Narrow-Gauge Spanish Railways") is a state-owned Spanish railway company, which provides rail services for both passengers and freight on most of Spain's 1,250 km (775 miles) of narrow gauge railway. In addition, it owns and manages the entire associated track.

25.7.2 The great majority of the narrow-gauge lines still operated by FEVE are located along or near Spain's Atlantic Ocean and Bay of Biscay coastline, which stretches from Galicia in the northwest, through Asturias and Cantabria to the Basque Country (with a branch extending into Castile and León). Together they form a large and strategically important network, which is why, unlike the other, more isolated regional railways, they have been retained under the integrated management of FEVE.

25.7.3 Quality of financial statements

Table 309 Quality of financial statements

Issue	Quality	Comment
Audit Assurance	Good	The accounts are audited by a state agency as this is a state owned organisation.
Transparency	Poor	We understand that the accounts meet the requirements for such a state owned organisation, however they do not appear to include detailed explanatory notes.
Visibility of transfers from/to other rail businesses	N/A	FEVE only uses the track that it owns.
Visibility of intra-group transfers	N/A	Not part of a group.

25.7.4 Compliance with Directive

As explained above, FEVE has been given an exemption from complying with the Directive. However, a new regulation is currently being developed for FEVE which is expected to be introduced in 2010. The details of it are not clear yet but it should move towards ensuring compliance with the Directive.

25.7.5 Public funding

Public funding made available to FEVE is shown in the table below.

Table 310 Public Funding

Year	2004				2005				2006				2007			
Type	Amount	Use of funds	Repay-ment Profile (where relevant)	Interest Rate (where relevant)	Amount	Use of funds	Repay-ment Profile (where relevant)	Interest Rate (where relevant)	Amount	Use of funds	Repay-ment Profile (where relevant)	Interest Rates (where relevant)	Amount	Use of funds	Repay-ment Profile (where relevant)	Interest Rates (where relevant)
Public Service Obligation PSO) Compensation																
Loans	€40.8m (from BEI)	Investment	2011-2022	Fixed 3.898%	€21.5m (from BEI)	Investment	2012-2023	Euribor BEI + 0.13%	€25m (from BEI)	Investment	2013-2024	Fixed 3.755%				
Equity																
Grants	€106.6 m	Investment and operations			€107.9m	Investment and operations			€121.2m	Investment and operations			€119.9 m €39.87 m	IInvestment (€50.05 m. for infrastructure, €9.24m for materials and €20.78 for other investments). Compensation for loses (from the Central Government and the Castilla y Leon Government)		
Debt Write-offs																
Other																

Source: FEVE

25.7.6 FEVE is reliant on significant loans from the European Investment Bank as well as direct grants from the Spanish government. Assuming that the three BEI loans remain unpaid, then they owe a total amount of £87.3m. FEVE received grants as “compensation from loses”, however it is unclear if those funds actually represent compensation for Public Service Obligations.

25.7.7 Financial data describing FEVE’s performance is set out below.

Table 311 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	140.2	140.8	179.0	163.6
Passenger & freight revenue	29.1	30.4	33.3	34.3
Total subsidisation	104.6	106.0	108.6	117.6
Wages, Salaries, Social Security Payments	64.5	67.7	70.5	73.0
Operating costs	141.5	151.1	153.6	163.2
Operating profit	(32.8)	(38.1)	(33.1)	(36.3)
Financial expenses	4.5	4.7	6.0	7.6
P&L on ordinary activities before tax	(37.3)	(42.8)	(39.1)	(43.9)
Total fixed assets	619.9	649.4	646.2	674.0
Long term receivables	-	-	-	-
Total current assets	34.2	52.6	119.8	72.2
Trade debtors	6.5	7.9	9.1	9.3
Other debtors	-	-	-	-
Current asset investments	11.6	16.3	7.5	10.6
Cash at bank and in hand	0.6	0.5	0.2	0.7
Creditors: <1yr (Current Liabilities)	40.1	65.3	80.7	88.8
Creditors: >1yr	185.6	201.3	220.4	214.6
Provisions for liabilities and charges	16.2	18.5	5.6	7.0
Equity	412.4	416.9	459.3	435.7
	No. / Km			
Average no. employees	1,968	1,977	1,950	1,961
Passenger-kilometres (m.)	232	236	214	201
Tonne-kilometres (m.)	457	465	473	460

Source: FEVE’s financial statements

Table 312 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	140.24	140.80	179.00	163.55
Net profit (€m.)	(37.30)	(42.83)	(39.11)	(43.86)
Operating profit (€m.)	(32.78)	(38.14)	(33.07)	(36.31)
Total assets (€m.)	654.14	702.02	766.01	746.15
Profitability				
Operating profit margin	-23.4%	-27.1%	-18.5%	-22.2%
Net margin	-26.6%	-30.4%	-21.8%	-26.8%
Return on assets	-5.7%	-6.1%	-5.1%	-5.9%
Return on equity	-9.0%	-10.3%	-8.5%	-10.1%
Viability ratio	0.99	0.93	1.17	1.00
Efficiency				
Liabilities / operating costs	1.71	1.89	2.00	1.90
Cost per staff member (€ '000)	71.88	76.42	78.77	83.24
Staff costs as a proportion of operating costs	45.6%	44.8%	45.9%	44.7%
Unit operating costs	-	-	-	-
Total Revenue per Passenger Km	-	-	-	-
Total Revenue per Freight Km	-	-	-	-
Indebtedness				
Total debt of the company (€m.)	191.21	207.99	230.59	223.20
Debt / Total liabilities	79.1%	72.9%	75.2%	71.9%
Debt: Equity ratio	0.46	0.50	0.50	0.51
Quick ratio	0.47	0.38	0.21	0.23
Current ratio	0.85	0.81	1.48	0.81
Debt service coverage ratio	(7.26)	(8.13)	(5.47)	(4.81)
Public funding				
Total public income (€m.)	104.59	105.98	108.60	117.64
Public funding / costs	73.9%	70.2%	70.7%	72.1%
Public funding / revenue	74.6%	75.3%	60.7%	71.9%

Source: FEVE's financial statements, Frontier analysis

25.7.8 While revenues grew substantially by 27% between 2005 and 2006, they have declined during 2007 by nearly 9%. Operating costs have been almost as high as revenues in every year, which means that the company has been making annual operating losses. They have also incurred significant net losses and made negative returns on their asset base.

25.7.9 Operating costs per staff member have been increasing but staff costs as a proportion of total operating costs has remained relatively stable at approximately 45%, suggesting that staff numbers must have declined.

25.7.10 Gearing is stable at about 0.5, which is in stark contrast to RENFE Operadora's gearing ratio of 2.0. The current ratio has been 0.8 or above during the period, which suggests that the company has almost enough liquidity to cover its short term liabilities. In addition, the data shows that 72% of the company's revenues come from public funding.

25.8 FGC

25.8.1 Ferrocarrils de la Generalitat de Catalunya (Catalan Government Railways), or FGC, is a railway company which manages and provides passenger and freight services on several unconnected lines in Catalonia. It owns 140 km (88 miles) of meter gauge, 42 km (24 miles) of standard gauge, and 89 km (56 miles) of broad gauge route, two meter gauge rack railways and four funicular railways.

25.8.2 On the basis of the State-Generalitat sessions of 1978, FGC was created on 5th September 1979 in order to operate the train lines in Catalonia that had previously belonged to FEVE. Thus, it became the first public company created by the first government of the restored Generalitat.

25.8.3 FGC is formed of two business units. The rail business unit, which includes the metropolitan lines Barcelona-Vallès and Llobregat-Anoia, and the Lleida-La Pobla de Segur line. The tourism and mountain business unit manages the Montserrat rack railway and cable cars of Sant Joan and Santa Cova, the mountain stations of La Molina and Vall of Núria, and the Alt Llobregat Tourist Railway.

25.8.4 The mission of FGC is to efficiently manage the services and the infrastructure that have been assigned to it as a public company and improve mobility in Catalonia.

25.8.5 Quality of financial statements

Table 313 Quality of financial statements

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the consolidated financial statements give an accurate picture of the size and composition of FGC on the 31st December 2007 and its results and cash flows for 2007.'[424] E&Y, 2007
Transparency	Good	The financial statements are drawn up in accordance with the Plan General Contable de España (Spanish General Accounting Plan).
Visibility of transfers from/to other rail businesses	N/A	FGC only use the track that they own.
Visibility of intergroup transfers	N/A	Not part of a group.

25.8.6 Compliance with the Directive

Table 314 Compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	A separate profit & loss account and balance sheet are produced and published for both the company's operating and infrastructure management businesses.
6.1(a)	Requirement to publish separated	Yes	The accounts are published on the

[424] 2007 FGC Annual Report, Auditor's report, p 159

	accounts.		company website.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	We have not encountered any evidence suggesting the transfer of public funding is occurring.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Spain and is not produced by FGC. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	The accounts are separated but it is not clear whether they manage their business in terms of separate business units, however, the wording of the directive implies that this point is optional.
9.4	Separate P&L and balance sheets kept and published for freight operations.	No	No separate accounts are produced for freight operations.
9.4(a)	Requirement to publish separated accounts.	No	No separate accounts are published for freight operations.
9.4	Funds for PSO transport activities shown separately in accounts	No	Although the total amount of public funding is disclosed, the amount corresponding to PSOs is not specified.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Spain. Hence, we have not encountered any evidence suggesting this is occurring.

25.8.7 We understand that FGC should comply with the Directive, although the Catalonian government does not appear to have put in place legislation to fully transpose it. In practice, FGC is not fully compliant. They do not have separate accounts for their freight transport business, although they separately disclose the amount of revenue generated from freight services, which is small compared to passenger services. Regarding public funds, they state the total amount they receive but do not specify how much corresponds to PSOs.

25.8.8 Public funding

The public funding received by the company from the Government of Catalonia is shown in the table below.

Table 315 Public Funding for FGC

Year	2004	2005	2006	2007
Grant by the Catalonian Government (€m.)	51.91	50.25	43.39	48.36

Source: FGC annual financial statements

25.8.9 Performance – Infrastructure management

Table 316 Summary Financial Data – Infrastructure management

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	1.7	0.4	0.2	0.3
Revenue from infrastructure charges	-	-	-	-
Total subsidisation	1.7	0.4	0.2	0.3
Wages, Salaries, Social Security Payments	-	-	-	-
Operating costs	0.2	9.7	9.6	9.8
Operating profit	1.6	(9.3)	(9.5)	(9.6)
Financial expenses	-	-	-	-
P&L on ordinary activities before tax	1.6	(9.3)	(9.5)	(9.6)
Total fixed assets	242.0	234.0	330.0	328.3
Long term receivables	-	-	-	-
Total current assets	1.0	4.7	8.3	11.7
Trade debtors	1.0	4.6	7.5	11.7
Other debtors	-	-	-	-
Current asset investments	-	-	-	-
Cash at bank and in hand	0.0	0.0	0.0	0.0
Creditors: <1yr (Current Liabilities)	0.0	0.3	2.9	22.1
Creditors: >1yr	42.8	42.8	146.0	132.5
Provisions for liabilities and charges	-	-	-	-
Equity	198.8	193.9	188.1	184.1
	No. / Km			
Average no. employees	-	-	-	-
Managed kilometres	252.0	343.2	344.5	344.5

Source: FGC's annual financial statements

Table 317 Financial Ratios – Infrastructure management

Financial indicators	2004	2005	2006	2007
Metric	**Million Euros**			
Performance				
Revenues (€m.)	1.73	0.44	0.15	0.28
Net profit (€m.)	1.58	(9.28)	(9.49)	(9.56)
Operating profit (€m.)	1.58	(9.28)	(9.49)	(9.56)
Total assets (€m.)	243.01	238.75	338.21	340.02
Profitability				
Operating profit margin	91.1%	-2128.4%	-6200.7%	-3438.8%
Net margin	91.1%	-2128.4%	-6200.7%	-3438.8%
Return on assets	0.6%	-3.9%	-2.8%	-2.8%
Return on equity	0.8%	-4.8%	-5.0%	-5.2%
Viability ratio	11.25	0.04	0.02	0.03
Efficiency				
Liabilities / operating costs	278.12	4.44	15.45	15.72
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	-	-	-	-
Unit operating costs (€ '000)	0.61	28.31	27.98	28.56
Total Revenue per managed km	-	-	-	-
Indebtedness				
Total debt of the company (€m.)	42.83	43.10	148.96	154.63
Debt / Total liabilities	100.0%	100.0%	100.0%	100.0%
Debt: Equity ratio	0.22	0.22	0.79	0.84
Quick ratio	33.33	15.43	2.56	0.53
Current ratio	33.53	15.83	2.82	0.53
Debt service coverage ratio	-	-	-	-
Public funding				
Total public income (€m.)	1.73	0.44	0.15	0.28
Public funding / costs	1125.3%	4.5%	1.6%	2.8%
Public funding / revenue	100%	100%	100%	100%

Source: FGC's annual financial statements, Frontier analysis

25.8.10 The infrastructure division has very low and declining operating revenues, which all appear to be sourced from public funds. They have also consistently reported net losses between 2005 and 2007 and hence generated a negative return on their asset base during this period.

25.8.11 The company appears to have become more indebted since 2005, with its gearing ratio increasing from 0.22 in 2005 to 0.88 in 2007, although this indicates that the level of debt has never exceeded the level of equity. The significant drop in the current ratio suggests that these higher levels of debt have been required to fulfil short term working capital requirements, rather than to meet long-term investments.

25.8.12 Performance – Passenger & freight services

The operating and financial performance of FGC's passenger and freight rail transport services is shown below.

Table 318 Summary Financial Data - Passenger & Freight

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	121.3	120.3	120.5	129.2
Passenger revenue	60.0	62.0	68.6	70.6
Freight revenue	2.7	2.8	3.1	3.2
Total subsidisation	51.9	50.3	43.4	48.4
Wages, Salaries, Social Security Payments	57.6	60.3	64.8	68.8
Operating costs	121.3	145.6	155.8	167.0
Operating profit	0.0	(25.3)	(35.3)	(37.8)
Financial expenses	1.7	1.5	1.6	2.0
P&L on ordinary activities before tax	(1.5)	(26.6)	(36.7)	(39.0)
Total fixed assets	535.4	571.3	591.0	609.0
Long term receivables	-	-	-	-
Total current assets	53.3	62.3	99.3	104.2
Trade debtors	45.3	54.3	86.6	100.3
Other debtors	-	-	-	-
Current asset investments	-	-	-	-
Cash at bank and in hand	6.2	5.3	8.5	2.0
Creditors: <1yr (Current Liabilities)	30.9	44.2	78.4	67.0
Creditors: >1yr	38.4	40.0	36.6	50.6
Provisions for liabilities and charges	1.1	1.0	4.7	0.9
Equity	515.2	544.6	567.2	591.1
	No. / Km			
Average no. employees	-	-	-	-
Passenger-kilometers (m.)	729.2	717.9	759.5	770.3
Tonne-kilometers (m.)	19.5	21.4	22.5	24.9

Source: FGC's annual financial statements

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	121.28	120.27	120.48	129.21
Net profit (€m.)	(1.47)	(26.60)	(36.65)	(38.99)
Operating profit (€m.)	0.03	(25.30)	(35.33)	(37.80)
Total assets (€m.)	588.67	633.63	690.34	713.22
Profitability				
Operating profit margin	0.0%	-21.0%	-29.3%	-29.3%
Net margin	-1.2%	-22.1%	-30.4%	-30.2%
Return on assets	-0.2%	-4.2%	-5.3%	-5.5%
Return on equity	-0.3%	-4.9%	-6.5%	-6.6%
Viability ratio	1.00	0.83	0.77	0.77
Efficiency				
Liabilities / operating costs	0.58	0.59	0.77	0.71
Cost per staff member	-	-	-	-
Staff costs as a proportion of operating costs	47.5%	41.4%	41.6%	41.2%
Unit operating costs	-	-	-	-
Total Revenue per Passenger-Km (€)	0.08	0.09	0.09	0.09
Total Revenue per Tonne-Km (€)	0.14	0.13	0.14	0.13
Indebtedness				
Total debt of the company (€m.)	56.53	71.24	94.52	98.98
Debt / Total liabilities	80.2%	83.6%	78.9%	83.5%
Debt: Equity ratio	0.11	0.13	0.17	0.17
Quick ratio	1.66	1.35	1.21	1.53
Current ratio	1.72	1.41	1.27	1.55
Debt service coverage ratio	0.02	(16.54)	(21.46)	(19.38)
Public funding				
Total public income (€m.)	51.91	50.25	43.39	48.36
Public funding / costs	42.8%	34.5%	27.8%	29.0%
Public funding / revenue	42.8%	41.8%	36.0%	37.4%

Source: FGC's annual financial statements, Frontier analysis

25.8.13 This part of the business has also been reporting net losses over the period 2004 to 2007, although the magnitude of the reported losses have grown quite substantially since the beginning of the period.

25.8.14 This part of the company has kept itself relatively debt free and the proportion of total revenues received through public funds has remained consistent at around 37 per cent. In addition, the current ratio has remained above 1 throughout the period.

25.9 EUSKOTREN

25.9.1 The public company Sociedad Pública Eusko Trenbideak – Basque Railways, S.A (EuskoTren), is owned by the Department of Transport and Public Works of the Basque Government. It was set up to provide the transport concessions that were transferred from the Spanish Central Government to the Basque region, through the 1978 Decree 2488/78.

25.9.2 Euskotren specialises in the provision of passenger train, metro and bus transport services and rail services represent around 75% of Euskotren's revenue. Since 2006, ETS has managed the rail network used by Euskotren[425]. This vertical separation was introduced under the Basque Parliament Law 06/2004.

25.9.3 Quality of financial statements

Table 319 Quality of financial statements

Issue	Quality	Comment
Audit Assurance	Partial	Auditors approved the accounts with one exception. "The company incurs losses that, following the established financial mechanisms, are covered through subsidies which equal the last year losses minus, mainly, the asset depreciation. Even if it does not affect the company's wealth, according to current accounting regulation subsidies to cover operating losses must be registered in the balance sheet under *Equity*, as *Contributions by shareholders to compensate for losses*. Therefore, the losses registered by the company and the contributions to compensate for losses must be increased by 27,166,000." *Source: Euskotren annual report, page 82*.[426]
Transparency	Good	The financial statements are drawn up in accordance with the Plan General Contable de España (Spanish General Accounting Plan)
Visibility of transfers from/to other rail businesses	N/A	Euskotren only uses the track that they own.
Visibility of intergroup transfers	N/A	Not part of a group.

25.9.4 Compliance with Directive

Table 320 Compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	The infrastructure manager (ETS) and the provider of transport services (Euskotren) are separate companies.

425 Since ETS's revenues are below €50 million, we do not review this company here.
426 Unofficial translation. See: http://www.euskotren.es/castellano/horarios/pdf/Mem07_ET_Digital_cast.pdf

6.1(a)	Requirement to publish separated accounts.	Yes	The accounts for Euskotren are published.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	No indication of transfer of public funds between the two companies.
6.1	Accounts kept in a way which reflects this prohibition	Yes	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Spain and is not produced by Euskotren. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	The infrastructure manager (ETS) and the provider of transport services (Euskotren) are separate companies.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	Euskotren does not provide freight services.
9.4(a)	Requirement to publish separated accounts.	Yes	Euskotren does not provide freight services.
9.4	Funds for PSO transport activities shown separately in accounts	No	They state the amount of public funding they get, but not detail how much corresponds to PSO transport activities.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	The amount of PSO funds is not detailed. In addition, the use of public funds is not specified in the accounts and was provided by Euskotren separately. Hence we did not encounter any evidence suggesting the transfer of PSO funding is occurring.

25.9.5 We understand that FGC should comply with the Directive, although the Basque government does not appear to have put in place legislation to fully transpose it (other than vertically separating the original company). In practice, Euskotren does not fully comply with the Directive. Although infrastructure management and transport services are performed by different companies[427], the accounts are not separated for freight and passenger transport activities and there is no disclosure of the public funds received which correspond to public service obligations.

[427] As explained above, infrastructure management is performed by ETS, another company owned by the Basque government.

25.9.6 Public funding

Table 321 Public Funding

Year	2006					2007				
Type	Amount	Source	Use of funds	Repayment	Interest Rates	Amount	Source	Use of funds	Repayment	Interest Rates
Loans	12,300,000	Financial Institution	Investment	15 years	Euribor +0,10					
Equity	31,245,155	Basque Government	Investment: €19.2m for infrastructure, €7.8m for materials and €4.1m for other investment			11,367,323	Basque Government	Investment: €0.2m for infrastructure, €8.8m for materials and €2.3m for other investment		
Grants	35,627,682	Others *	Compensation for loses incurred.			32,085,273	Others **	Compensation for loses incurred.		
Debt Write-offs										
Others										
	*	Basque Government	31,486,265			**	Basque Government	27,166,000	NB. These are various public bodies operating within parts of the Basque region.	
		Government of Bizkaia	3,818,858				Government of Bizkaia	4,420,449		
		Hobetuz Foundation	78,530				Hobetuz Foundation	90,675		
		Council of Eibar (town)	210,976				Council of Eibar (town)	238,726		
		Others	33,053				Government of Gipuzkoa	169,423		

Note that public funding figures for 2004 & 2005 are not shown as the company's activities were vertically separated in January 2006 and therefore they are not comparable.

Source: Euskotren

Euskotren received grants as "compensation from loses", however it is unclear if those funds actually represent compensation for Public Service Obligations.

25.9.7 Performance

The company's operating and financial performance is shown in the tables below. Note that these figures include the company's metro, bus, rail infrastructure, and rail operations businesses.

Table 322 Summary Financial Data[428]

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	-	-	57.0	53.8
Passenger & freight revenue	-	-	20.4	20.9
Total subsidisation	-	-	35.6	32.1
Wages, Salaries, Social Security Payments	-	-	25.1	23.5
Operating costs	-	-	71.0	62.3
Operating profit	-	-	(14.0)	(8.5)
Financial expenses	-	-	0.8	1.2
P&L on ordinary activities before tax	-	-	(14.4)	(9.2)
	-	-		
Total fixed assets	-	-	67.0	69.0
Long term receivables	-	-	-	-
Total current assets	-	-	17.8	15.4
Trade debtors	-	-	0.7	0.7
Other debtors	-	-	0.4	0.4
Current asset investments	-	-	-	-
Cash at bank and in hand	-	-	4.5	6.3
Creditors: <1yr (Current Liabilities)	-		25.4	17.2
Creditors: >1yr	-	-	22.1	-
Provisions for liabilities and charges	-	-	1.1	1.2
Equity	-	-	36.0	50.1
	No. / Km			
Average no. employees	-	-	888	798
Passenger-kilometers (m.)	-	-	279	291
Tonne-kilometres (m.)	-	-	16	16

Source: Euskotren's financial statements

[428] Rail services represent around 75% of Euskotren's revenue

Table 323 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	-	-	57.02	53.76
Net profit (€m.)	-	-	(14.38)	(9.19)
Operating profit (€m.)	-	-	(13.98)	(8.50)
Total assets (€m.)	-	-	84.88	84.38
Profitability				
Operating profit margin	-	-	-24.5%	-15.8%
Net margin	-	-	-25.2%	-17.1%
Return on assets	-	-	-16.9%	-10.9%
Return on equity	-	-	-40.0%	-18.4%
Viability ratio	-	-	0.80	0.86
Efficiency				
Liabilities / operating costs	-	-	0.68	0.30
Cost per staff member (€ '000)	-	-	79.97	78.03
Unit operating costs	-		-	-
Staff costs as a proportion of operating costs	-	-	35.3%	37.8%
Total Revenue per Passenger-Km	-	-	-	-
Total Revenue per Tonne-Km	-	-	-	-
Indebtedness				
Total debt of the company (€m.)	-	-	42.11	11.92
Debt / Total liabilities	-	-	86.6%	64.6%
Debt: Equity ratio	-		1.17	0.24
Quick ratio	-	-	0.22	0.43
Current ratio	-	-	0.70	0.89
Debt service coverage ratio	-	-	(17.03)	(7.33)
Public funding				
Total public income (€m.)	-	-	35.63	32.09
Public funding / costs	-		50.2%	51.5%
Public funding / revenue	-	-	62.5%	59.7%

Note that figures for 2004 & 2005 are not shown as the company's activities were vertically separated in January 2006 and therefore they are not comparable.

Source: Euskotren's financial statements, Frontier analysis

25.9.8 While Euskotren's overall revenues appear to have been declining since 2006, there has been a slight improvement in revenue from its rail passenger and freight business. However, it is still loss-making in operating and net terms, although its losses have declined, both in absolute terms and relative to revenues. Public funding constitutes over half of overall revenues.

25.9.9 Staff costs per staff member have slightly declined and 90 staff have been lost between 2006 and 2007. Staff costs as a proportion of operating costs have slightly increased to reach approx 38%, although this reflects the fall in the operating cost base.

25.9.10 Debt is relatively low and has declined while equity has increased. Consequently, the gearing ratio declined to only 0.24 in 2007. The current ratio and quick ratios have both remained below one, implying that the company could meet its short-term liabilities.

25.10 ADIF

25.10.1 ADIF (Administrador de Infraestructuras Ferroviarias) is responsible for the management of the Spanish railway infrastructure, excluding the regional networks in the Basque region and Catalonia. However, it only owns those lines which are commercially profitable, while the Spanish government owns the rest. It is a public entity under the control of the Ministry of Public Works and plays a leading role in promoting the railway sector, by facilitating access to the infrastructure under fair conditions.

25.10.2 The responsibilities of ADIF include both the construction of new rail infrastructure and the maintenance of the entire railway network both conventional and high-speed.

25.10.3 ADIF has responsibility for:

- the administration of railway infrastructures (tracks, stations, etc);
- the management of the train traffic;
- the allocation of capacity to railway operators; and
- the collection of charges for the use of infrastructure and stations.

25.10.4 Quality of financial statements

Table 324 Quality of financial statements

Issue	Quality	Comment
Audit Assurance	Good	"In our opinion the 2007 annual accounts of ADIF give an accurate picture of the financial situation and the financial results" [429] INTERVENCIÓN GENERAL DE LA ADMINISTRACIÓN DEL ESTADO, 2007
Transparency	Good	The financial statements are drawn up in accordance with the Plan General Contable de España (Spanish General Accounting Plan)
Visibility of transfers from other rail businesses	Good	Track access charges are disclosed
Visibility of intergroup transfers	N/A	Not part of a group.

25.10.5 Compliance with Directive 2001/12/EC

Table 325 Compliance with Directive 2001/12/EC

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	ADIF and RENFE Operadora are legally separate and publish separate accounts which include profit & loss accounts and balance sheets.
6.1(a)	Requirement to publish separated accounts	Yes	These are available for download on their websites.
6.1	Prohibition on the transfer of public	Yes	Track-access charges are paid to ADIF

[429] 2007 Cuentas anuales ADIF, p. 94

	funds between infrastructure manager and rail operator		by RENFE Operadora. This provides an opportunity for cross-subsidisation, if these charges do not reflect costs, however it is not possible to determine whether this is the case. Hence we did not encounter any evidence suggesting this is occurring.
6.1	Accounts kept in a way which reflects this prohibition	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Spain and is not produced by ADIF. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	ADIF and RENFE Operadora are separate companies providing infrastructure management and train services respectively.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	ADIF is an infrastructure manager and does not provide rail freight services.
9.4(a)	Requirement to publish separated accounts	Yes	ADIF is an infrastructure manager and does not provide rail freight services.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	ADIF is an infrastructure manager and does not provide PSO transport activities.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	ADIF is an infrastructure manager and does not provide PSO transport activities.

ADIF complies with the vertical accounting separation requirements of the Directive due to the legal separation of the infrastructure management activities. As in most other countries, the statutory accounting requirements are not sufficient to be able to determine whether or not public funds are being transferred between activities.

25.10.6 Public funding

Part of the railway infrastructure in Spain is owned by the State and part is owned by ADIF. ADIF receives public funding for managing the State's infrastructure and also for carrying out infrastructure investment commissioned by the State. In addition, in recent years, ADIF has received a significant amount money in the form of grants from the EU as well as further funding from the Spanish government to increase its equity

Table 326 Public Funding

Year / Type	2005 Amount	2005 Use of funds	2006 Amount	2006 Use of funds	2007 Amount	2007 Use of funds
Public Service Obligation (PSO) Compensation						
Loans						
Equity (additions)	€1850.8m		€1850.5m		€1204m	
Grants (EU Funds)	€791.2m (€597.1m from EU Cohesion funds; €173.6m from FEDER funds; €20.3m from RTE funds)	Investment	€440.8m (€352.9m from EU Cohesion funds; €68.2m from FEDER funds; €11.5m from RTE funds)	Investment	€485.5m (€260.8m from EU Cohesion funds; €225.1m from FEDER funds; €0.64m from RTE funds)	Investment
	€698.5m	Management of infrastructure owned by the State	€635.4m	Management of infrastructure owned by the State	€783.1m	Management of infrastructure owned by the State
Grants (Spanish govt.)	€537.3m	Investments in conventional infrastructure	€358.3m	Investments in conventional infrastructure	€481.1m	Investments in conventional infrastructure
	€145.5m	Investments in high speed infrastructures	€153.3m	Investments in high speed infrastructures	€439.9	Investments in high speed infrastructures
Debt Write-offs						
Other						

Source: ADIF financial statements

25.10.7 Performance

The financial performance of the national rail infrastructure manager is shown in the tables below.

Table 327 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	-	1,777.3	1,757.8	2,217.8
Revenue from infrastructure charges	-	1,214.3	1,142.7	1,576.0
Total subsidisation	-	1,381.3	1,147.0	1,704.1
Wages, Salaries, Social Security Payments	-	562.6	630.0	648.6
Operating costs	-	1,934.9	1,885.4	2,371.7
Operating profit	-	(157.6)	(127.6)	(153.9)
Financial expenses	-	45.2	87.3	161.6
P&L on ordinary activities before tax	-	(129.2)	(93.3)	(139.1)
Total fixed assets	-	15,291.7	17,997.1	20,616.5
Long term receivables	-	-	-	-
Total current assets	-	4,704.2	6,560.4	6,192.4
Trade debtors	-	-	-	-
Other debtors	-	-	-	-
Current asset investments	-	3,461.0	3,226.7	2,769.7
Cash at bank and in hand	-	503.2	233.7	207.9
Creditors: <1yr (Current Liabilities)	-	1,959.6	1,767.7	2,085.2
Creditors: >1yr	-	2,043.5	2,883.5	3,076.7
Provisions for liabilities and charges	-	73.8	159.9	169.2
Equity	-	10,880.5	12,642.3	13,802.1
	No. / Km			
Average no. employees	-	14,744	14,506	14,141
Managed kilometres	-	-	-	-

Source: ADIF's financial statements

Table 328 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	-	1,777.33	1,757.80	2,217.79
Net profit (€m.)	-	(129.17)	(93.33)	(139.14)
Operating profit (€m.)	-	(157.58)	(127.58)	(153.91)
Total assets (€m.)	-	20,032.72	24,583.49	26,845.20
Profitability				
Operating profit margin	-	-8.9%	-7.3%	-6.9%
Net margin	-	-7.3%	-5.3%	-6.3%
Return on assets	-	-0.6%	-0.4%	-0.5%
Return on equity	-	-1.2%	-0.7%	-1.0%
Viability ratio	-	0.92	0.93	0.94
Efficiency				
Liabilities / operating costs	-	2.11	2.55	2.25
Cost per staff member (€ '000)	-	131.23	129.97	167.72
Staff costs as a proportion of operating costs	-	29.1%	33.4%	27.3%
Unit operating costs (€ '000)	-	-	-	-
Total revenue per managed km (€ '000)	-	-	-	-
Indebtedness				
Total debt of the company (€m.)	-	3,642.34	4,275.66	4,669.40
Debt / Total liabilities	-	89.3%	88.9%	87.6%
Debt: Equity ratio	-	0.33	0.34	0.34
Quick ratio	-	2.02	1.96	1.43
Current ratio	-	2.40	3.71	2.97
Debt service coverage ratio	-	(3.48)	(1.46)	(0.95)
Public funding				
Total public income (€m.)	-	1,381.30	1,147.00	1,704.10
Public funding / costs	-	71%	61%	72%
Public funding / revenue	-	78%	65%	77%

Note that figures for 2004 are not reported due to the fact that in 2004 Renfe Operadora and ADIF were one integrated company.

Source: ADIF's financial statements, Frontier analysis

25.10.8 Operating revenues have shown substantial growth of nearly 25 per cent between 2005 and 2007. However, the company has been continually loss-making in net terms. Public funding has actually declined during the period from 45% of total revenues, down to 22%.

25.10.9 Operating costs per staff member have also grown rapidly between 2006 and 2007 but staff costs have remained relatively stable as a proportion of operating costs. This suggests that the number of personnel has declined.

25.10.10 While the company's debts appear rather high in absolute terms, gearing is relatively low at 0.34 and both the current and quick ratios are greater than 1. This suggests that the company is more than capable of paying off its short-term liabilities.

25.11 Conclusion

25.11.1 Based on the information available, we can conclude the following.

- At a national level, there is complete legal separation of rail infrastructure, which is managed by ADIF and rail services, which are operated by RENFE Operadora. In addition, EUSKOTREN provides rail services in the Basque country, while FGC provides rail services in Catalonia and manages the associated infrastructure. FEVE manages and provides rail services on the narrow-gauge railway along the Northern Spanish Coast.
- The sector is regulated by Comité de Regulación Ferroviaria.
- We have obtained fairly detailed data on the amount, sources and uses of public funding from the companies' financial statements and from their responses to our questionnaires. FEVE, EUSKOTREN & RENFE Operadora all receive significant amounts which are described as being used to "compensate losses from remaining activities". This sounds like the state providing a lump-sum injection of funds to cover any outstanding losses.
- At a national level, Article 6.1 of the Directive has not been transposed into national legislation, however the law does refer to the legal separation of rail infrastructure management and operations. Article 6.2 is fully transposed, but 9.4 has only been partially dealt with, and importantly, there is no explicit prohibition on the transfer of funds between public passenger transport services and other transport services.
- FEVE has been exempted from complying with the Directive. The other regional companies are subject to the regulation of regional governments, however, according to one legal opinion, these companies should still be compliant with the Directive.
- It is unclear why the smaller operators don't separate their accounts, i.e. why the regional governments have not introduced the necessary legislation. Specifically:
  - why FEVE, EUSKOTREN and FGC's accounts are not vertically separated (i.e. between infrastructure and operations); and
  - why FEVE and EUSKOTREN's accounts are not horizontally separated (i.e. between passenger and freight services).
- The accounts produced are compliant with the Spanish general accounting plan, however the level of disclosure of inter-company transactions is insufficient to be able to determine whether public funds have been transferred between the infrastructure managers and rail operators or PSO related funds have been transferred to other parts of the rail operators businesses.
- All train operating companies pay track and infrastructure access charges to the infrastructure manager and it is not possible to tell whether these reflect the underlying costs and therefore are economically justifiable.

- All of the companies have been consistently loss making since 2004 and RENFE Operadora has also had fairly high levels of debt.

26 SWEDEN

26.1 Industry overview

26.1.1 Liberalisation of Swedish railway markets began in the 1980s and track maintenance and railway operations were divided in 1988. The national railway was split into a public service enterprise responsible for railway transport, Statens Järnvägar, and a government agency responsible for infrastructure, the Swedish National Rail Administration. Freight markets were opened to competition in 1996.

26.1.2 A separate state authority, the National Public Transport Agency, was established in the 1990's to finance and procure unprofitable inter-regional passenger rail services.

26.1.3 In 2001, the incumbent public rail operator, Statens Järnvägar, was split into six separate government-owned companies, one of them, SJ AB, operating passenger traffic and another, Green Cargo AB, providing freight services.

26.1.4 The liberalisation of the railway sector in Sweden has resulted in a number of new operators entering the markets both for passenger and freight rail services, but SJ AB and Green Cargo retain high market shares.

26.1.5 Since 2001 stations, goods terminals and other interfaces with the railway have been owned and operated by Jernhusen.[430]

26.1.6 The Swedish Transport Agency (Transportyrelsen) is responsible for setting regulations, issuing permits, as well as acting in a supervisory capacity for heavy and light rail and underground systems. Its primary goals are a high level of safety and an efficient railway market characterised by healthy competition.

26.1.7 In 2007, 14 passenger operators and 14 freight operators had licenses to operate on the Swedish rail network.

26.2 List of Railway Undertakings

Passenger	Freight	Infrastructure Manager
SJ*	Green Cargo*	Banverket*
Inlandsbanan AB	Arlanda Express	Inlandsbanan AB
Krösatågen	Bantag	Malmö-Limhamns Järnväg
Pågatågen – Skånetrafiken	Hector Rail	
SL - Storstockholms Lokaltrafiks – Tåg	Inlandsbanan AB	
TÅGAB - Tågakeriet i Bergslagen	Midcargo AB	
Tågfrakt AB	Malmö-Limhamns Järnväg	
TiB - Tåg i Bergslagen	Malmtrafik i Kiruna AB	
TKAB - Svenska Tågkompaniet AB	Skövde-Karlsborg Järnväg AB	
UppTåget - Upplands Läns Trafik AB (service contracted back to SJ)	Stena Metall Återvinning	
VT – Västtrafik (some services	TGOJ - Trafik Grängesberg-Oxelösund Järnvägar	
	TX Logistik	

430 www.jernhusen.se

Passenger	Freight	Infrastructure Manager
contracted back to SJ) VTAB - Värmlandstrafik AB VTS - Veolia Transport Sverige X-Trafik - Gävleborgs Läns Trafik AB (service contracted to TKAB)		

*Companies with Swedish revenues greater than €50m which will be studied in depth.

26.3 Industry Regulator & Government Departments

- Regulatory Authorities
  - o Transportyrelsen (Swedish Transport Agency)[431]
- Ministry for Enterprise, Energy and Communications[432]
  - o Näringsdepartementet
- Ministry of Finance[433]
  - o Finansdepartmentet

26.4 Legal Framework

26.4.1 Act 2004:526 Rail Regulation

SFS 2004:526 Järnvägsförordning[434]

Act 2004:519 The Railways Act

SFS 2004:519 Järnvägslag[435]

The background to the current rail law is available in the Government bill 2003/04: 123 "The Railway Act". In March 2007 the Government presented a proposal for amendments to the Railway Act and other laws, based on the new EC Directive. The proposal was addressed in the bill 2006/07: 45 "second railway package – continued EU harmonisation of railway legislation" – and was adopted by Parliament in May 24, 2007.
After the demerger of the State Railways in 2001, railway companies in Sweden are no longer governed by public law. The civil regulatory framework of such companies' activities on a commercial basis may be considered sufficient to ensure the requirements of Directive 2001/12/EC on the railway company's management independent of the State.

Table 329 EC Directive 2001/EC/12 compliance

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and	Yes	'The Railway Company shall, where appropriate, separate accounts activities relating to freight transport and

[431] www.transportstyrelsen.se/en/
[432] www.sweden.gov.se/sb/d/2067
[433] www.sweden.gov.se/sb/d/2062
[434] www.riksdagen.se/webbnav/index.aspx?nid=3911&bet=2004:526
[435] www.riksdagen.se/webbnav/index.aspx?nid=3911&bet=2004:519

	published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'		management of rail infrastructure.'[436]
6.1(a)	Requirement to publish separated accounts	No	We were unable to locate legislation relating to the requirement to publish the separated accounts.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	'Public support paid to one of these activities may only be used in that business.'[437]
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Partial	'The Railway Company shall, where appropriate, separate accounts activities relating to freight transport and management of rail infrastructure'[438] This only represents partial transposition as more than separated accounts are required for the detection of transfers.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	'Infrastructure managers shall where appropriate, separate their accounts from the provision of transport.'[439]
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	'The Railway Company shall, where appropriate, separate accounts activities relating to freight transport and management of rail infrastructure.'[440]
9.4(a)	Requirement to publish separated accounts	No	We were unable to locate legislation relating to the requirement to publish the separated accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in	Yes	'Public contributions paid to passenger activities shall be reported separately in the business.'[441]

[436] The Railways Act 2004:519, Chapter 4
[437] The Railways Act 2004:519, Chapter 4
[438] The Railways Act 2004:519, Chapter 4
[439] The Railways Act 2004:519, Chapter 4
[440] The Railways Act 2004:519, Chapter 4
[441] The Railways Act 2004:519, Chapter 4

	the relevant accounts…’		
9.4	’…and may not be transferred to activities relating to the provision of other transport services or any other business.’	Yes	‘Public support paid to one of these activities may only be used in that business ‘[442]

26.4.2 In our view, Sweden has not fully implemented the directive on accounting separation, with explicit wording in the Railways Act which reflects the requirements of the directive. However, this only extends to the failure to specify the need to publish the separated accounts and only limited legislative provisions relating to the way in which accounts are kept.

26.4.3 Separation of infrastructure from operations began as early as 1985, within the state railways, developed further in 1988, and free access to the freight market has been in place since 1996. Prior to the implementation of Directive 91/440, the predecessor of 2001/12/EC, passenger rail services had begun to be tendered. The spirit of accounting separation has therefore long been an established principle in Sweden, and although it was taken to Court by the Commission in 2003 for not having fully technically transposed all of Directive 2001/12/EC’s themes, this ended up rather as a *review* of practice rather than a full-scale *re-organisation*, suggesting no cause for concern. Effective compliance was nonetheless achieved in 2004.

26.4.4 We understand that it is the Swedish Rail Agency that is responsible for monitoring compliance with accounting separation requirements.

26.5 Sources of Information

26.5.1 Swedish laws and regulations:

Act 2004:519 The Railways Act and its Bill, 2003/04: 123

Act 2004:526 Rail Regulation

26.5.2 Annual accounts:

- SJ Annual Reports (2005 – 2007)
- Banverket Annual Reports (2005-2007)
- Green Cargo Annual Reports (2004-2007)

26.5.3 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007
- Correspondence with Banverket

26.6 SJ AB

26.6.1 SJ is a 100% state-owned passenger railway undertaking. Until 1988, the company was fully integrated with infrastructure operations. However, since a further demerger and second reform in 2001 it has only provided passenger

[442] The Railways Act 2004:519, Chapter 4

services, and it still enjoys exclusive rights to passenger services on certain profitable inter-regional routes.

26.6.2 SJ's operations fall broadly into subsidised and unsubsidised services. The unsubsidised services are a monopoly and consist mainly of the high-speed train network. The subsidised trains are awarded through competitive bids, although some services fall in between these categories, since public transit agencies can pay SJ to allow transit pass holders access to SJ's trains.

26.6.3 There is no explicit statement of subsidies received for operating certain routes.

26.6.4 Accounting Issues

Table 330 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'The annual accounts and the consolidated financial statements have been prepared in accordance with the Annual Accounts Act and thereby give a true and fair view of the company's and the group's financial position and results of operations in accordance with generally accepted accounting principles in Sweden. The consolidated financial statements have been prepared in accordance with IFRS international accounting standards as adopted by the EU and the Annual Accounts Act, and give a true and fair view of the group's operations and financial position. The board of directors' report is compatible with the other parts of the annual accounts and consolidated financial statements. We recommend to the general meeting of shareholders that the income statement and balance sheet of the parent company and the group be adopted, that the profit of the parent company be dealt with in accordance with the proposal in the board of directors' report and that the members of the board of directors and the chief executive officer be discharged from liability for the financial year. Stockholm, 18 February 2008 Ernst & Young AB
Accounting separation compliance	N/A	SJ is structurally separate from Green Cargo and Banverket, the infrastructure manager.
Transparency	Good	There is a good level of detail in the accounts relating to railway issues such as track infrastructure charges, and subsidiaries' accounts.
Visibility of Public Funding	Poor	Subsidy is admitted in that some inter-regional routes require state support.[443] However, no actual figures are explicitly stated.
Visibility of transfers from other rail businesses	Good	There is a good level of disclosure regarding transactions with Banverket for track access charges. Business transactions between the SJ Group and related companies are conducted at market rates and under

[443] SJ Annual Report 2007, p 10

Issue	Quality	Comment
		commercial terms and conditions.
Visibility of intra-group transfers	Good	Related party transactions are clearly stated.

Table 331 EC Directive 2001/EC/12 company compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure.'	Yes	SJ AB is a structurally separate company from the infrastructure provider, Banverket. Both companies' accounts are downloadable from their respective websites.
6.1(a)	Requirement to publish separated accounts.	Yes	These accounts are published and available for download on the SJ AB website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	SJ AB is a structurally separate company from the infrastructure provider, Banverket.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by SJ AB. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	SJ AB is a legally separate entity from the infrastructure provider, Banverket.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	SJ AB is a passenger-only railway undertaking.
9.4(a)	Requirement to publish separated	Yes	SJ AB is a passenger-only

	accounts		railway undertaking, and hence does not publish separated freight accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	No	This is only revealed in terms of passenger kilometers travelled, and not with regard to the related financial transactions. Included in the total sales figures, is an explanation of the acquisition to operate PSO commuter services in Stockholm from June 2006. There are also 'descriptive mentions' of some routes receiving subsidy[444]. However, there is no mention of specific costs in the accounts, unless it is to be included under 'other income'.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	We were unable to identify any legislation relating to the transfer of public funding between activities.

26.6.5 We have not been able to obtain public funding figures and they are not available in the published accounts. However, it is noted that 'preference' is given to the incumbent, SJ AB, regarding its exclusive right to the profitable interregional passenger services. SJ AB thus benefits from this advantageous market position.[445]

Table 332 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	626	619	754	894
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	172	163	200	240
Operating costs	589	547	687	804
Operating profit	36	72	66	90
Financial expenses	22	14	18	22
P&L on ordinary activities before tax	21	61	54	77
Total fixed assets	635	776	785	701
Long term receivables	29	78	82	79
Total current assets	185	148	267	309
Trade debtors	36	35	55	76
Other debtors	25	103	192	70
Current asset investments	22	0	0	0
Cash at bank and in hand	90	2	7	154
Creditors: <1yr (Current Liabilities)	156	152	218	193
Creditors: >1yr	372	459	492	465
Provisions for liabilities and charges	120	74	46	32
Equity	201	318	377	400
	No. / Km			
Average no. employees	3,273	3,153	3,581	4,053
Passenger-kilometres (m.)	5,544	5,673	6,160	5,384
Tonne-kilometres (m.)	0	0	0	0
Managed kilometres	0	0	0	0

[444] SJ Annual Report 2007, pp10 and 12
[445] Railimplement Country Reprt Sweden, 2005, p 4

Table 333 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	626	619	754	894
Net profit (€m.)	21	61	54	77
Operating profit (€m.)	36	72	66	90
Total assets (€m.)	849	1,002	1,134	1,089
Profitability				
Operating profit margin	6%	12%	9%	10%
Net margin	3%	10%	7%	9%
Return on assets	2%	6%	5%	7%
Return on equity	10%	19%	14%	19%
Viability ratio	106%	113%	110%	111%
Efficiency				
Liabilities / operating costs	1.1	1.3	1.1	0.9
Cost per staff member (€ '000)	180	174	192	198
Staff costs as a proportion of operating costs	29%	30%	29%	30%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	0.11	0.11	0.12	0.17
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€ '000)	-	-	-	-
Indebtedness				
Total debt of the company (€m.)	0	0	0	0
Debt / Total liabilities	0%	0%	0%	0%
Debt: Equity ratio	0.0	0.0	0.0	0.0
Quick ratio	1.1	0.9	1.2	1.6
Current ratio	1.2	1.0	1.2	1.6
Debt service coverage ratio	1.7	5.1	3.6	4.0
Public funding				
Total public income (€m.)	0	0	0	0
Public funding / costs	0%	0%	0%	0%
Public funding / revenue	0%	0%	0%	0%

26.6.6 In performance, the trend for SJ since 2004 has been for improved revenues and profits, both net and operating. Total assets have also increased. This puts the company on a strong footing, which is again reinforced by the profitability figures. We are unable, however, to check the public funding levels as no data us given. There has been relatively little change in efficiencies, and indeed asset intensity has decreased since 2005 which is contrary to what would be expected.

26.7 Banverket

26.7.1 The Swedish Rail Administration is a government agency that owns and maintains virtually all railway lines in Sweden. It was formed in 1988 when Statens Järnvägar was split into infrastructure and train service operations.

26.7.2 Banverket Produktion competes with private companies in construction and maintenance of railway lines.

Table 334 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'We consider that our audit provides a reasonable basis for the following statement. The annual accounts have been prepared in accordance with the ordinance on annual accounts and budget documentation, the official document regarding appropriations and other decisions affecting the Administration. The National Audit Office is of the opinion that the annual accounts give a true and fair description in all essential repects.' Swedish National Audit Office (Riksrevisionen), March 14 2008
Transparency	Good	Banverket's accounts give a high level of disclosure for all its activities.
Visibility of transfers from other rail businesses	Good	There is a good level of disclosure of activities between Banverket and other rail companies. Note 2 in the 2007 Annual Report outlines transactions such as track access charges, and other income from operations such as telecoms provision and electricity sales during 2007.[446]
Visibility of intra-group transfers	Good	Participation in associated companies and other long-term securities is well disclosed.[447]

[446] Banverket Annual Report 2007, p 64
[447] Banverket Annual Report 2007, Note 14, p 66

Table 335 EC Directive 2001/EC/12 company compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure.'	Yes	Banverket is a structurally separate company from railway undertakings. Its accounts are downloadable online.
6.1(a)	Requirement to publish separated accounts	Yes	These accounts are published and available for download on the Banverket website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	Banverket is a structurally separate company from railway undertakings.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	No	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts and is not provided by Banverket. Please see chapter 29 for further information on the requisite information.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	Banverket is a legally separate entity from the railway undertakings.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'	Yes	Banverket is an infrastructure manager and does not have a freight operating division.
9.4(a)	Requirement to publish separated freight accounts	Yes	Banverket is not required to publish separated freight accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	Banverket receives no PSO for passenger transport.
9.4	'…and may not be transferred to activities relating to the provision of	Yes	Banverket receives no PSO for passenger transport.

	other transport services or any other business.'		

26.7.3 In our opinion, Banverket is compliant with the EC directives. However, statutory accounts are not sufficiently detailed to detect illegal cross subsidisation.

Table 336 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	825	837	934	1,018
Revenue from infrastructure charges	53	52	57	61
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	375	368	385	407
Operating costs	961	981	1,086	1,154
Operating profit	-137	-144	-152	-136
Financial expenses	64	64	47	68
P&L on ordinary activities before tax	-198	-206	-198	-201
Total fixed assets	8,864	9,334	9,966	10,719
Long term receivables	1	1	1	1
Total current assets	346	275	289	416
Trade debtors	63	90	91	92
Other debtors	42	39	35	94
Current asset investments	0	0	0	0
Cash at bank and in hand	116	44	42	190
Creditors: <1yr (Current Liabilities)	324	331	327	415
Creditors: >1yr	1,562	1,658	1,797	1,646
Provisions for liabilities and charges	34	37	43	35
Equity	7,291	7,585	8,089	9,041
	No. / Km			
Average no. employees	6,617	6,545	6,552	6,518
Passenger-kilometres (m.)	0	0	0	0
Tonne-kilometres (m.)	0	0	0	0
Managed kilometres	0	0	0	0

Table 337 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	825	837	934	1,018
Net profit (€m.)	-198	-206	-198	-201
Operating profit (€m.)	-137	-144	-152	-136
Total assets (€m.)	9,212	9,610	10,256	11,137
Profitability				
Operating profit margin	-17%	-17%	-16%	-13%
Net margin	-24%	-25%	-21%	-20%
Return on assets	-2%	-2%	-2%	-2%
Return on equity	-3%	-3%	-2%	-2%
Viability ratio	86%	85%	86%	88%
Efficiency				
Liabilities / operating costs	2.0	2.1	2.0	1.8
Cost per staff member (€ '000)	145	150	166	177
Staff costs as a proportion of operating costs	39%	38%	35%	35%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€ '000)	-	-	-	-
Indebtedness				
Total debt of the company (€m.)	-	-	-	1,436
Debt / Total liabilities	-	-	-	69%
Debt: Equity ratio	-	-	-	0.2
Quick ratio	0.7	0.5	0.5	0.9
Current ratio	1.1	0.8	0.9	1.0
Debt service coverage ratio	-2.1	-2.3	-3.3	-2.0
Public funding				
Total public income (€m.)	0	0	0	0
Public funding / costs	0%	0%	0%	0%
Public funding / revenue	0%	0%	0%	0%

26.7.4 Banverket's operations are for the most part funded by Government appropriations – this figure is relatively high at 67%. Grants in 2007 amounted to SEK 349.522m, up from SEK 86.580m in 2006.[448] Loans in 2007 also increased on the previous year.

26.7.5 Revenues and assets have increased steadily since 2004, however, the company continues to operate at a loss, and profitability indicators remain negative. The company's indebtedness has also increased. This is not helped by decreasing asset intensity, and slightly increased costs per staff member.

26.8 Green Cargo AB

26.8.1 Green Cargo is a national and international Swedish logistics company. Following the second rail reform in 2001, it was created out of the freight division of Statens Järnvägar (SJ). However, the freight offering has since widened, and Green Cargo complements its rail freight operations with road freight in order to reach the final destination more effectively. Through its 30 terminals and logistics centres, warehousing is a key part of its product. However, 80% of its revenues continue to come from purely railway operations, with 13% and 7% respectively from third-party logistics services.

26.8.2 Green Cargo is a limited company and 100% owned by the Swedish state, falling under the responsibility of the Ministry for Industry. It has four subsidiaries, Nordisk Transport Rail, TGOJ Trafik, Hallsbergs Terminal AB and CargoNet.

26.8.3 Green Cargo has entered a Joint Venture with Deutsche Bahn through the latter's DB Schenker subsidiary in Denmark. The aim of this is to enhance Scandinavia – Continent flows, and to this end, Green Cargo has bought a 49% stake in DB Schenker Rail Danmark A/S.

26.8.4 Public Funding

26.8.4.1 No significant public funding is made available to Green Cargo.

26.8.5 Accounting Issues

Table 338 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'The annual accounts …. give a true and fair view of the company's financial position and results of operations in accordance with generally accepted accounting principles in Sweden. The consolidated accounts have been prepared in accordance with international financial reporting standards IFRSs as adopted by the EU and the Annual Accounts Act and give a true and fair view of the Group's financial position and results of operations: 2 April 2008 Deloitte AB
Accounting separation compliance	N/A	Green Cargo is a structurally separated freight operating company.
Transparency	Good	Green Cargo's annual reports show a good level of disclosure. They detail the costs and revenues contributions

[448] This increase was mainly due to additional funding made available to Banverket to cover for storm damage in the previous year.

Issue	Quality	Comment
		on all core business and group activities.
Visibility of Public Funding	Good	The procedure for recognising public funding is clearly stated in that it would be reported as income in the income statement.[449]
Visibility of transfers from other rail businesses	Good	Transfers from other rail businesses are clearly stated. Green Cargo's largest cost is track access (Banverket), followed by leasing of vehicles from Swedish State Railways. Office space and terminals are also leased from other rail companies.[450]
Visibility of intra-group transfers	Good	Transactions with subsidiaries are clearly disclosed. As well as companies directly part of Green Cargo, there are transfers with other associated state companies.[451]

Table 339 EC Directive 2001/EC/12 company compliance

Article	Issue	Compliance	Comment
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure.'	Yes	Green Cargo is a structurally separate company from the infrastructure provider, Banverket.
6.1(a)	Requirement to publish separated accounts	Yes	These accounts are published and available for download on the Green Cargo website.
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	Green Cargo is a structurally separate company from the infrastructure provider, Banverket.
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	Green Cargo does not provide infrastructure or passenger services and is structurally separate.
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	Green Cargo is a legally separate entity from the infrastructure provider, Banverket.
9.4	'In the case of railway undertakings profit and loss accounts and either	Yes	Green Cargo is a freight-only railway undertaking and so by

[449] See 'Government Grants', Green Cargo Annual Report 2007, p 69
[450] Note 5, 'Transactions with related parties', Green Cargo Annual Report 2007, p 74
[451] Note 5, 'Transactions with related parties', Green Cargo Annual Report 2007, p 74

	balance sheets or annual statements of assets and liabilities shall be kept and published for businesses relating to the provision of rail freight transport services.'		default keeps separate rail freight accounts.
9.4(a)	Requirement to publish separated freight accounts	Yes	Green Cargo is a freight-only railway undertaking and so this requirement is satisfied through publishing its standard accounts.
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	Green Cargo is a freight-only railway undertaking and receives no PSO for passenger transport.
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	Green Cargo is a freight-only railway undertaking and receives no PSO for passenger transport. Within this freight-only business, however, we are unable to determine whether there are any cross-subsidies between different freight *modes*, as Green Cargo is a road haulier as well.

26.8.6 In our opinion, Green Cargo is compliant with the requirements of the accounting separation directives.

Table 340 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	Million Euros			
Total revenue	652	632	636	666
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	175	171	174	179
Operating costs	639	608	605	634
Operating profit	13	24	31	32
Financial expenses	11	11	8	10
P&L on ordinary activities before tax	4	15	26	27
Total fixed assets	112	244	241	223
Long term receivables	0	0	0	0
Total current assets	112	172	196	182
Trade debtors	62	54	61	66
Other debtors	5	5	10	8
Current asset investments	22	92	88	69
Cash at bank and in hand	8	5	22	22
Creditors: <1yr (Current Liabilities)	127	127	157	105
Creditors: >1yr	165	142	109	125
Provisions for liabilities and charges	5	3	2	1
Equity	46	145	169	173
	No. / Km			
Average no. employees	3,360	3,187	3,115	3,050
Passenger-kilometres (m.)	0	0	0	0
Tonne-kilometres (m.)	0	0	0	0
Managed kilometres	0	0	0	0

Table 341 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m.)	652	632	636	666
Net profit (€m.)	4	15	26	27
Operating profit (€m.)	13	24	31	32
Total assets (€m.)	225	417	437	405
Profitability				
Operating profit margin	2%	4%	5%	5%
Net margin	1%	2%	4%	4%
Return on assets	2%	4%	6%	7%
Return on equity	10%	10%	16%	15%
Viability ratio	102%	104%	105%	105%
Efficiency				
Liabilities / operating costs	0.5	0.4	0.4	0.4
Cost per staff member (€ '000)	190	191	194	208
Staff costs as a proportion of operating costs	27%	28%	29%	28%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€ '000)	-	-	-	-
Indebtedness				
Total debt of the company (€m.)	1	10	1	1
Debt / Total liabilities	0%	4%	0%	0%
Debt: Equity ratio	0.0	0.1	0.0	0.0
Quick ratio	0.8	1.2	1.2	1.6
Current ratio	0.9	1.4	1.3	1.7
Debt service coverage ratio	1.3	2.2	4.0	3.3
Public funding				
Total public income (€m.)	0	0	0	0
Public funding / costs	0%	0%	0%	0%
Public funding / revenue	0%	0%	0%	0%

26.8.7 Green Cargo remains a profitable company with growing revenues, and substantially increased profits, with operating profits more than doubling since 2004. Like Banverket and SJ AB, asset intensity has decreased, together with increased staff costs. This would seem due to the recent increased salary increases that have been agreed in the Swedish railway industry.[452]

26.9 Conclusions

From the data available, we can conclude that:

- In Sweden most aspects of the EC directive have been transposed into national legislation. It does not appear that they have transposed the requirement to publish the separated accounts and there is no specific transposition of how they are to be kept. However, since 1985, Swedish companies have been increasingly adopting accounting separation principles. Passenger, freight and infrastructure company’s are, therefore, structurally separate, rendering many of the directive’s requirements redundant.
- SJ AB, the passenger railway operator, is compliant with most aspects of the legislation, but does not provide details of PSO funding. It remains a profitable company.
- The infrastructure operator and manager, Banverket, has published accounts and complies with all the criteria. However, it continues to be non-profitable.

[452] See note in Banverket Annual Report 2007, p 58.

- Freight is dealt with by Green Cargo AB, which has also achieved compliance with all relevant criteria, and whose operations are reported as profitable. Being a freight operator, there is no PSO requirement.
- All three companies above are ultimately owned by the Swedish State. Regulation and monitoring of compliance by the Swedish Rail Agency is also a State matter. Therefore the main players in the railway industry in Sweden (excluding smaller companies not reported on here) are operated and controlled by the Swedish State.

27 SWITZERLAND

27.1 Industry overview

27.1.1 On the network side, *Trasse Schweiz AG* commenced operations in April 2006 and is responsible for infrastructure marketing, train path allocation and monitoring non-discriminatory timetabling for Switzerland's normal gauge network. Capacity planning, timetabling and infrastructure management are still largely in the hands of two incumbents *Schweizerische Bundesbahnen AG (*or *SBB)* and *BLS AG*.

27.1.2 Rail freight operators from other European countries have open access to the Swiss normal gauge network since January 2007. Foreign passenger operators have access rights pursuant to Directive 91/440/EEC. However, there is open access for "extra train business" and special transports.

27.1.3 Open access for national rail freight undertakings has been in place since 1999. The passenger side remains regulated through franchises and transport contracts, including exclusive rights for allocated train paths. Tender procedures for these franchises and transport contracts can be used but, where it has been tried, the procedure was cancelled due to a lack of viable propositions.

27.1.4 Regional passenger transport is provided under public service contracts. The relative contributions made by the Cantons and the Confederation depend on the financial situation of the Canton, the size of its population and its existing rail infrastructure.

27.1.5 All long-distance passenger transport (apart from Cisalpino trains) are also under public service contracts but must be operated on a commercial basis. The terms of the franchise agreements depend on the amount of investment by the relevant railway undertaking. SBB is the only company (apart from Cisalpino) to provide long distance passenger services.

27.1.6 The industry regulator *Bundesamt fur Verkehr* incorporates (in administrative terms) an Arbitration Commission, which works independently. The Arbitration Commission is responsible for settling conflicts over network access and infrastructure charges. The Commission does not have statutory powers to initiate investigations ex officio, but is doing so anyway through written agreement with market participants. However, it can make ex ante or ex post decisions regarding network access agreements. Decisions are binding but objections have a suspensive effect. Competition is monitored by the independent Competition Commission.

27.1.7 IBM ranked Switzerland in first place in respect of the absence of information barriers. Comprehensive information is available to support licensing processes and infrastructure access. Foreign railway undertakings have praised the Swiss in terms of the level of administrative barriers, with apparently no discriminatory aspects to licensing, safety certification or rolling stock homologation processes.

27.1.8 The lead time for regular train path applications is eight months and applications can be made during the year. The share of ordered but unused train paths is 15 per cent for freight transport (low by European standards according to IBM). Train paths for passenger transport are allocated on the basis of the franchises, so there are no unused paths.

27.1.9 The infrastructure charging systems of SBB and BLS are published, have a linear structure, are standardised for all participants and cover all necessary elements. The charging systems of SBB and BLS are uniform, apart from energy rates.

27.1.10 There is non-discriminatory access to all service facilities, additional services and ancillary services for freight and passenger transport. This includes access to SBB's maintenance facilities (which are not part of the infrastructure).

27.1.11 The modal share of rail freight transport was up from 40 per cent in 1995 to 44 per cent in 2005. Modal share of rail passenger transport also rose from 12.9 per cent to 14.1 per cent in 2004. The total length of Switzerland's normal gauge network is 3,307 km.

27.2 List of Railway Undertakings

Passenger	Freight	Infrastructure Manager
SSB GmbH BLS AG THURBO AG Rhatische Bahn HUPAC	Schweizerische Bundesbahnen SSB Cargo AG BLS AG THURBO AG Rhatische Bahn HUPAC	SBB AG BLS AG THURBO AG Rhatische Bahn

27.3 Industry Regulator and Government Departments

27.3.1 Government departments:

- Department of the Environment, Transport, Energy and Communications[453]

27.3.2 Regulatory Authorities:

- Trasse Schweiz AG[454]
- Bundesamt fur Verkehr (BAV)[455]
- Arbitration Commission[456]

27.4 Legal Framework

27.4.1 As Switzerland is not required to transpose European directives into its domestic legislation, we have not included a table of transposition.

27.5 Sources of Information

27.5.1 Annual accounts:

- SBB Consolidated Financial Statements (2007)

27.5.2 Other Information

- IBM Global Business Services, Rail Liberalisation Index 2007

[453] See http://www.uvek.admin.ch
[454] See http://www.train-paths.ch
[455] See http://www.bav.admin.ch
[456] See http://www.ske.admin.ch

- SBB website, www.sbb.ch, (Febuary 2009).
- BLS AG wbsite www.bls.ch, (Febuary 2009)
- Strukton website, http://www.strukton.nl, (January 2009)

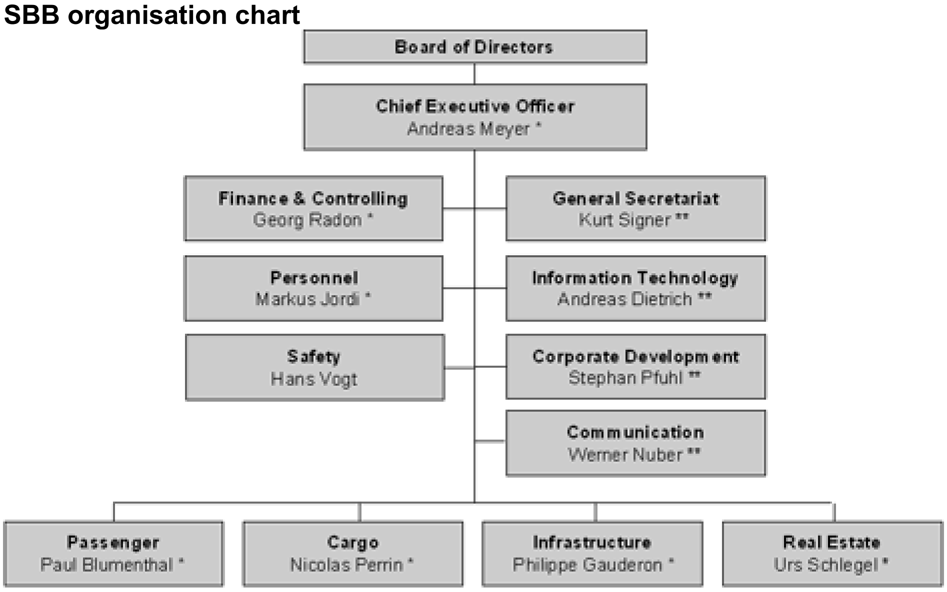
27.6 SBB (Swiss Railways)

27.6.1 Schweizerische Bundesbahnen AG (SBB AG) is a public sector joint stock company and is governed by the Swiss Federal Railways Act, 1998.

27.6.2 The company is divided into managing divisions, with each responsible for the companies assigned to them. These include the wholly-owned SBB infrastructure, passenger transport and freight transport subsidiaries, as well as other companies under SBB's complete or partial control.

27.6.3 Therefore, although, for example, SBB Cargo AG is a wholly-owned subsidiary and established as an independent legal entity, it is managed as if it were a corporate division. Each of the four divisions (passenger traffic, cargo, infrastructure and real estate), as well as Central Services, keeps their own accounts.

Figure 17: SBB organisation chart



27.6.4 SBB infrastructure sells train paths to SBB train operators and to over 20 other operators. According to IBM, there were 24 railway undertakings in Switzerland in 2007, 6 in freight and 18 in passenger transport. External freight providers hold about 25 per cent of the freight market.

27.6.5 Freight transport pays more for use of the infrastructure than passenger train operators. According to ECORYS therefore, "passenger transport is cross subsidised by freight transport".

27.6.6 Our review of SBB's accounts is set out in Table 342 below.

Table 342 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	'In our opinion, the consolidated financial statements give a true and fair view of the financial position, the results of operations and the cash flows in accordance with Swiss GAAP ARR and comply with Swiss law.' Ernest & Yong Ltd., Berne, 2008
Transparency	Good	SBB's 2007 annual report begins with a presentation of the SBB Group on a consolidated basis. Separate P&Ls and balance sheets are then presented for each of five 'segments' (or operating divisions) of the Group, i.e., passenger traffic, freight, infrastructure, real estate and central services. The divisions are responsible for (i) the wholly-owned SBB operating subsidiaries (at home and abroad); and (ii) other group holdings and associated companies. Our understanding is that the individual 'segment' statements reflect this division of responsibilities. Accounts are also produced for the parent company SBB AG. As we understand it, SBB AG owns the infrastructure and is the parent company for the passenger, freight and other rail-related (e.g., power, communications) subsidiaries. Most of the Group's long-term debt sits on SBB AG's balance sheet.
Visibility of transfers from/to other rail businesses	Partial	Despite a relatively detailed consolidated cash flow statement for the Group, separate cash flow statements do not accompany the individual P&L and balance sheets for the SBB operating 'segments'. These would be necessary to identify flows of cash between the different rail businesses under SBB's control.
Visibility of intra-group transfers	Good	The annual report provides reconciliation between the consolidated accounts and the sum of the individual 'segments' in the form of 'eliminations'. Revenue eliminations are predominantly in the categories of (i) traffic revenues (ii) rental revenue from real estate (iii) other operating revenues and (iv) allocation of central services costs. The annual report also provides full details services rendered by one 'segment' to another.

27.6.7 As Switzerland is outside the EU, their rail companies are not required to conform to the Directive 2001/12. Therefore, no table of compliance is presented in this chapter.

27.6.8 In what follows, we provide data that will serve to illustrate the operational and financial performance of the SBB Group. Time and information constraints have prevented us from presenting this data for every year across the 2004 to 2007 time period. Instead, we have presented the consolidated results for 2007 alongside the results for each of the operational 'segments' of the SBB Group.

27.6.9 The conversion from Swiss francs to EURO was done using the exchange rate of CHF 1 = €0.66, as indicated by Bloomberg on 29 May 2009. [457]

[457] Please see http://www.bloomberg.com/invest/calculators/currency.html

Table 343: Operating and financial data for the SBB Group, Parent Company and operational 'segments'

SBB

Summary financial data 2007	SBB Group consolidated	SBB AG	SBB passenger traffic	SBB freight	SBB infrastructure	Real estate	Central Services
€ million		Parent company					
Total revenue	5,064.77	4,247.17	2,538.56	837.41	2,056.03	436.66	357.52
Revenue from infrastructure charges	-	-	-	-	452.50	-	-
Total subsidisation (Federal)	1,289.05	1,155.86	390.59	7.72	890.74	-	-
Wages, Salaries, Social Security Payments	(2,239.31)	(1,720.95)	(932.98)	(401.87)	(771.87)	(60.19)	(127.64)
Operating costs	(2,676.30)	(2,428.93)	(1,440.85)	(554.33)	(1,355.11)	(197.67)	(235.75)
Operating profit (EBIT)	149.16	97.28	164.74	(118.80)	(70.95)	178.79	(5.87)
Financial expenses (net)	(89.36)	(62.70)	(35.64)	(6.14)	(7.06)	(55.64)	14.52
P&L on ordinary activities before tax	59.80	34.58	129.10	(124.94)	(78.01)	123.16	8.65
	-	-	-	-	0	-	-
Total fixed assets	17,758.22	16,396.84	3,795.40	577.83	11,217.95	2,137.21	29.77
Long term receivables	841.63	1,785.04	3.37	9.24	44.29	6.73	4,325.31
Total current assets	1,591.33	1,414.31	902.09	285.71	471.90	60.92	937.93
Trade debtors	449.06	378.25	242.88	121.84	158.73	27.06	98.47
Other debtors	170.41	273.50	181.10	44.29	151.80	15.84	588.59
Current asset investments	357.79	316.93	249.02	28.91	67.19	6.34	59.47
Cash at bank and in hand	386.83	263.60	138.20	45.01	3.23	8.91	191.40
Creditors: <1yr (Current Liabilities)	1,513.38	1,354.39	1,006.96	301.42	586.87	1,470.08	6,216.41
Creditors: >1yr	12,194.95	11,783.57	1,424.08	243.28	5,787.87	234.83	450.91
Provisions for liabilities and charges	564.76	685.28	62.44	109.49	237.07	18.35	146.52
Equity	5,918.09	5,772.95	2,207.37	218.59	5,122.39	481.60	(1,520.84)
Average no. employees	27,438	25,204	11,953	4,406	9,107	736	
Managed kilometres (millions)			15,134.00	13,368.10	154.70		

Table 344: Financial ratios for the SBB Group, Parent Company and operational 'segments'

Financial indicators	SBB Group consolidated	SBB AG	SBB passenger traffic	SBB freight	SBB infrastructure	Real estate	Central Services
Performance							
Revenues (€m.)	5,064.77	4,247.17	2,538.56	837.41	2,056.03	436.66	357.52
Net profit (€m.)	59.80	34.58	129.10	(124.94)	(78.01)	123.16	8.65
Operating profit (€m.)	149.16	97.28	164.74	(118.80)	(70.95)	178.79	(5.87)
Total assets (€m.)	20,191.18	19,596.19	4,700.85	872.78	11,734.14	2,204.86	5,293.00
Profitability							
Operating profit margin	2.9%	2.3%	6.5%	-14.2%	-3.5%	40.9%	-1.6%
Net margin	1.2%	0.8%	5.1%	-14.9%	-3.8%	28.2%	2.4%
Return on assets	0.3%	0.2%	2.7%	-14.3%	-0.7%	5.6%	0.2%
Return on equity	1.0%	0.6%	5.8%	-57.2%	-1.5%	25.6%	-0.6%
Viability ratio	1.03	1.02	1.07	0.88	0.97	1.69	0.98
Efficiency							
Liabilities / operating costs	2.90	3.33	1.05	0.68	3.11	6.68	18.75
Cost per staff member (€ m)	0.18	-	0.20	0.22	0.23	0.35	-
Staff costs as a proportion of operating costs	45.6%	41.5%	39.3%	42.0%	36.3%	23.3%	35.1%
Unit operating costs (€)			0.16	0.07	13.75		
Total revenue per managed km (€)			0.17	0.06	13.29		
Indebtedness							
Total debt of the company (€m.)	5,879.60	5,424.60	100.20	194.00	619.10	255.00	5,748.20
Debt / Total liabilities	41.2%	39.2%	4.0%	29.7%	9.4%	14.8%	84.4%
Debt: Equity ratio	0.99	0.94	0.05	0.89	0.12	0.53	(3.78)
Quick ratio	0.90	0.91	0.81	0.80	0.65	0.04	0.15
Current ratio	1.05	1.04	0.90	0.95	0.80	0.04	0.15
Debt service coverage ratio	0.31	4.43	1.55	(3.72)	(8.24)	0.36	(0.01)
Public funding							
Total public income (€m.)	1,289.05	1,155.86	390.59	7.72	890.74	-	-
Public funding / operating costs	26%	28%	16%	1%	42%	-	-
Public funding / revenue	25%	27%	15%	1%	43%	-	-

27.7 BLS AG

27.7.1 BLS AG was created in 2006 as a result of the merger between BLS Lötschbergbahn and Regional Mittelland AG. It is owned by the Canton of Berne (55.8%) and the Swiss Confederation (21.7%).

27.7.2 BLS AG is a legally separate company, involved in passenger transportation and infrastructure management. BLS AG has a 52% share of a subsidiary BLS Cargo, which is involved in freight transportation. The other share holders are DB Schenker (45%) and IMT AG (3%).

27.7.3 Our review of BLS's accounts is set out in Table 345 below.

Table 345 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	"In our opinion, the consolidated financial statements give a true and fair view of assets, liabilities, financial position and performance in accordance with the Swiss GAAP FER and comply with Swiss law." Ernst & Young, April 2008
Transparency	Good	There appears to be an adequate level of detail in the company's accounts. Summary details appear to be provided for each of the infrastructure and transport parts of the company.
Visibility of transfers from/to other rail businesses	Partial	There is some detail of transfers between BLS and other rail companies.
Visibility of intra-group transfers	Partial	There is some detail of transfers between BLS's infrastructure and passenger businesses.

27.7.4 As a Swiss rail company, BLS is not required to comply with the European directives on accounting separation. Therefore, no compliance table is presented in this section.

27.7.5 BLS AG received public funding of CHF 229 million in 2004.

27.7.6 Summary operational and financial data for BLS AG is presented in Table 346 below. Corresponding financial ratios are presented in Table 348.

Table 346: Operational and financial data for BLS AG

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	0	0	472.58	469.27
Passenger revenue	0	0	90.77	94.19
Total subsidisation	0	0	-	-
Wages, Salaries, Social Security Payments	0	0	176.33	187.20
Operating costs	0	0	459.40	456.81
Operating profit	0	0	13.17	12.46
Financial expenses	0	0	5.99	6.76
P&L on ordinary activities before tax	0	0	11.75	10.58
Total fixed assets	0	0	1,430.06	1,440.44
Long Term receivables	0	0	-	-
Total current assets	0	0	176.01	170.88
Trade debtors	0	0	50.14	43.16
Other debtors	0	0	19.92	19.40
Current asset investments	0	0	-	-
Cash at bank and in hand	0	0	82.44	83.17
Creditors: <1yr (Current Liabilities)	0	0	189.96	198.03
Creditors: >1yr	0	0	1,211.36	1,206.86
Provisions for liabilities and charges	0	0	-	-
Equity	0	0	191.95	192.44
	No. / Km			
Average no. employees	0	0	0	0
Passenger-kilometres	0	0	0	0

Table 347: Financial ratios for BLS AG

Financial indicators	2004	2005	2006	2007
Metric	**Million Euros**			
Performance				
Revenues	-	-	472.58	469.27
Net profit	-	-	11.75	10.58
Operating profit	-	-	13.17	12.46
Total assets	-	-	1,606.07	1,611.32
Profitability				
Operating profit margin	-	-	0.03	0.03
Net margin	-	-	0.02	0.02
Return on assets	-	-	0.01	0.01
Return on equity	-	-	0.06	0.05
Viability ratio	-	-	1.03	1.03
Efficiency				
Liabilities / operating costs	-	-	3.05	3.08
Cost per staff member	-	-	-	-
Staff costs as a proportion of operating costs	-	-	0.38	0.41
Unit operating costs	-	-	-	-
Total Revenue per Passenger Km	-	-	-	-
Indebtedness				
Total debt of the company	-	-	1,226.06	1,226.33
Debt / Total liabilities	-	-	0.87	0.87
Debt: Equity ratio	-	-	6.39	6.37
Quick ratio	-	-	0.80	0.74
Current ratio	-	-	0.93	0.86
Debt service coverage ratio	-	-	2.20	1.84
Public funding				
Total public income	-	-	0.00	0.00
Public funding / costs	-	-	0.00	0.00
Public funding / revenue	-	-	0.00	0.00

27.8 HUPAC

27.8.1 The Hupac Group Ltd is a freight transporter through the Swiss Alps. Operating a network of over 110 trains a day.

27.8.2 The company is owned by 100 shareholders. Transport companies and forwarding agents from Switzerland, Germany, Italy, France, Austria and the Netherlands hold 72% of the share capital, with the remaining 28% held by railway companies.

27.8.3 The Hupac group consists of ten companies based in Switzerland, Germany, Italy, the Netherlands and Belgium.

27.8.4 Our review of HUPAC's accounts is set out in Table 348 below.

Table 348 Accounting Issues

Issue	Quality	Comment
Audit Assurance	Good	"In our opinion, the accounting records and financial statements and the proposed appropriation of available earnings comply with Swiss law and the company's articles of incorporation." Ernst & Young 2008
Transparency	Good	The HUPAC's accounts provide a good amount of detail.
Visibility of transfers from/to other rail businesses	Poor	There is no mention in the accounts of track access charges levied on HUPAC. There is a limited amount of information provided on the income received from the leasing out of the companies rolling stock.
Visibility of intra-group transfers	Partial	There is little detail provided of transfers between HUPAC and its subsidiary companies.

27.8.5 As HUPAC is a dedicated rail freight transport company and does not appear to be the recipient of any public funding, we have refrained from assessing the company's compliance with the requirements of Directive 2001/12/EC.

27.8.6 HUPAC's operating and financial performance is shown in Table 349 below. Corresponding financial ratios are shown in Table 350.

Table 349 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	53	53	39	43
Revenue from Passenger transport	0	0	0	0
Revenues from Freight transport	53	53	39	43
Revenue from infrastructure charges	0	0	0	0
Total subsidisation	0	0	0	0
Wages, Salaries, Social Security Payments	0	0	0	0
Operating costs	47	47	34	38
Operating profit	6	6	5	5
Financial expenses	1	1	1	1
P&L on ordinary activities before tax	6	5	5	5
Total fixed assets	17	98	77	85
Long term receivables	0	0	0	0
Total current assets	17	13	19	11
Trade debtors	0	0	0	0
Other debtors	10	7	5	5
Current asset investments	0	0	0	0
Cash at bank and in hand	3	4	12	5
Creditors: <1yr (Current Liabilities)	12	12	11	11
Creditors: >1yr	49	38	26	21
Provisions for liabilities and charges	11	19	24	27
Equity	39	42	36	37
	No. / Km			
Average no. employees	0	0	0	0
Passenger-kilometres (m)	0	0	0	0
Tonne-kilometres (m)	0	0	0	0
Managed kilometres	0	0	0	0

Table 350 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	53	53	39	43
Net profit (€m)	6	5	5	5
Operating profit (€m)	6	6	5	5
Total assets (€m)	34	111	96	96
Profitability				
Operating profit margin	12%	11%	13%	12%
Net margin	11%	10%	12%	13%
Return on assets	17%	5%	5%	6%
Return on equity	15%	13%	13%	15%
Viability ratio	1	1	1	1
Efficiency				
Liabilities / operating costs	1.6	1.5	1.8	1.5
Cost per staff member (€ '000)	-	-	-	-
Staff costs as a proportion of operating costs	0%	0%	0%	0%
Unit operating costs (€ '000)	-	-	-	-
Total Revenue per Passenger Km (€)	-	-	-	-
Total Revenue per Freight Km (€)	-	-	-	-
Total revenue per managed km (€m)	-	-	-	-
Indebtedness				
Total debt of the company (€m)	16	5	5	7
Debt / Total liabilities	22%	8%	8%	12%
Debt: Equity ratio	0.4	0.1	0.1	0.2
Quick ratio	1.0	1.0	1.5	0.9
Current ratio	1.4	1.1	1.7	1.0
Debt service coverage ratio	5.5	5.6	7.1	6.2
Public funding				
Total public income (€m)	0	0	0	0
Public funding / costs	0%	0%	0%	0%
Public funding / revenue	0%	0%	0%	0%

27.9 Conclusions

27.9.1 As Switzerland is outside the EU, they are not obliged to transpose the directives into domestic legislation and their rail companies are not required to implement the requirements of the directives. Generally, however, the principles of the directives are implemented and the integrated companies have accounting or structural separation for their various activities.

28 UNITED KINGDOM

28.1 Industry Overview

28.1.1 Great Britain privatised and liberalised its rail sector in 1994, splitting the former incumbent British Rail into more than 100 companies. Infrastructure management was separated from the provision of transport services and allocated to Railtrack, a private company listed on the London Stock Exchange. After Railtrack became insolvent in 2001, management of the infrastructure was taken over by Network Rail, a "not for dividend company" under the control of the British government.

28.1.2 The British rail regulator's website currently lists 27 rail passenger operators active on British mainline infrastructure (though some of these operators run sub-brands). Public service contracts, which govern the majority of passenger services, are awarded via a tender process. A franchise agreement is signed with the railway undertaking that wins the tender, guaranteeing it exclusive rights. As some of the franchises overlap, this exclusive right does not mean that the railway undertaking is the sole user on the entire network covered by the franchise. Depending on the attractiveness of the operations concerned, the operator receives or pays a fee in return for the franchise.

28.1.3 Following the Railways Infrastructure (Access and Management) Regulations 2005, domestic and foreign rail freight operators have open access to the rail network. The British rail regulator's website currently lists five rail freight operators active on British infrastructure (though some of these companies operate sub-brands).

28.1.4 The Office of Rail Regulation (ORR) acts as the rail regulatory authority as defined in Article 30 of Directive 2001/14/EC and is vested with competencies which exceed the requirements of the Directive. Managed by a Board whose members are appointed by the Minister of Transport for a term of five years, the ORR has comprehensive competencies. It is authorised to order coercive measures and can impose fines of up to ten per cent of the annual revenues of a licensed railway undertaking.

28.1.5 The performance of the rail passenger operators increased by approximately 40 per cent in terms of passenger kilometres between 1995 and 2004, while the performance of rail freight operators increased by approximately 35 per cent, in terms of tonne kilometres between 1995 and 2005. Data from the ORR's latest National Rail Trends Yearbook shows that railways accounted for 12.5% of freight moved in 2006. According to IBM's '*Rail Liberalisation Index 2007*' report, the modal split for the passenger segment in GB increased from 4.3 per cent in 1995 to 5.4 per cent in 2004.

28.1.6 Despite these recent developments, it should be noted that railway's share of the modal split in Great Britain does not differ significantly from the Western European average. Moreover, further increases in rail's share of the modal split may be limited by capacity bottlenecks.

28.1.7 Indeed, while rail has succeeded in improving its performance compared with the other transport modes, the industry continues to face challenges:

(i) According to information supplied by the Association of Train Operating Companies (ATOC)[458], British railway undertakings currently face problems resulting from a lack of infrastructure capacity. This lack of capacity, which follows

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ATOC is a community of interests consisting of passenger railway undertakings in Great Britain recent increases in transport volumes, is causing congestion at some major nodes.

(ii) According to Network Rail, train punctuality in 2007-08 was just under 90 per cent. While this represents an improvement in punctuality relative to the early part of the decade (when punctuality fell below 80% in the aftermath of the 2001 Hatfield rail crash), further network infrastructure improvements formed the focus of a recent Government paper setting out policy strategy for the next 30 years.

28.2 List of Railway Undertakings

28.2.1 The following table lists the companies which will be studied in depth. All these companies were involved in the provision of rail services or rail infrastructure management in Great Britain for some or all of the period between January 2004 and December 2007 and achieved annual revenues of €50m or more.

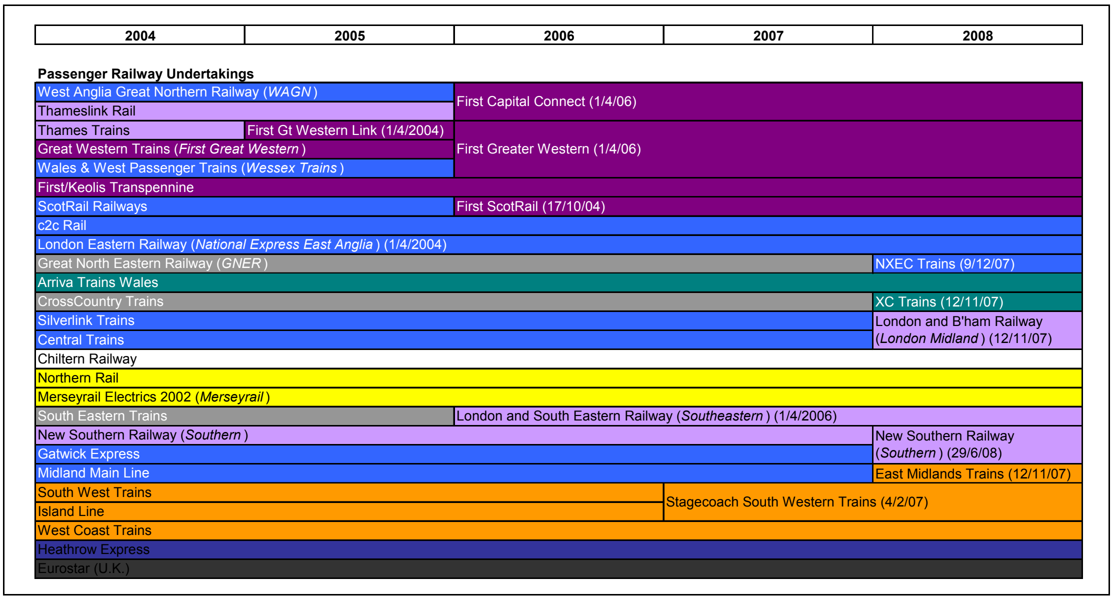
Passenger	Freight	Infrastructure Manager
Arriva Trains Wales/Trenau Arriva Cymru Ltd	Direct Rail Services Ltd	Network Rail Infrastructure Ltd
c2c Rail Limited	English Welsh & Scottish Railway Ltd	The Channel Tunnel Rail Group Ltd
Central Trains Ltd	Freightliner Heavy Haul Ltd	
CrossCountry Trains Ltd	Freightliner Ltd	
East Midland Trains Ltd	GB Railfreight Ltd	
Eurostar (U.K.) Limited		
First Capital Connect Ltd		
First Great Western Link Ltd		
First Greater Western Ltd		
First ScotRail Ltd		
First/Keolis Transpennine Ltd		
Gatwick Express Ltd		
Great North Eastern Railway Ltd		
Great Western Trains Company Ltd		
Heathrow Express Operating Company Ltd		
London and Birmingham Railway Ltd		
London and South Eastern Railway Ltd		
London Eastern Railway Limited		
Merseyrail Electrics 2002 Ltd		
Midland Main Line Ltd		
New Southern Railway Ltd		
Northern Rail Ltd		
NXEC Trains Ltd		
ScotRail Railways Ltd		
Silverlink Train Services Ltd		
South Eastern Trains Ltd		
South West Trains Ltd		
Stagecoach South Western Trains Ltd		
Thames Trains Ltd		

Thameslink Rail Ltd The Chiltern Railway Company Ltd Wales & West Passenger Trains Ltd West Anglia Great Northern Railway Ltd West Coast Trains Ltd XC Trains Ltd		

28.2.2 Seven freight and passenger operators have been omitted from this list on the grounds that their turnover does not exceed €50m.

28.2.3 It should be noted that a number of passenger franchises have changed hands since 2004. Not all of the companies listed in the table above continue to trade. Figure 18 provides an overview of the passenger railway franchisees over time:

Figure 18 Franchise timeline for GB passenger railway undertakings, 2004-2008

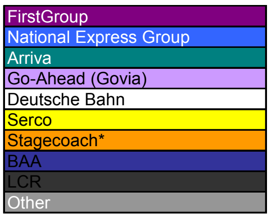


Notes to Figure 18:

(i) Precise dates when new rail operators commenced operations are shown in brackets.

(ii) The diagram to some extent simplifies franchise developments: for example, in 2007 the franchise run by Central Trains was split up and redistributed between a number of other franchises, rather than simply being transferred wholesale to London Midland.

(iii) The following colour-coding identifies the parents of each of the passenger railway undertakings:



28.3 Industry Regulator & Government Departments

- **Office of Rail Regulation** (www.rail-reg.gov.uk). The ORR is the independent safety and economic regulator for railways across the whole of Great Britain. The ORR came into existence in 2004, replacing the Rail Regulator, which had itself existed since Britain's railways were privatised in 1993. The ORR gained further responsibilities following the abolition of another non-departmental public body, the Strategic Rail Authority, in 2006. As well as being the authority responsible for safety on the railway network, the ORR has three key economic functions:
    - to regulate Network Rail (the British rail infrastructure manager);
    - to licence operators of railway assets; and
    - to approve track, station and light maintenance depot access.
- **Department for Transport** (DfT) (www.dft.gov.uk) The DfT is responsible for the transport network in England, as well as for transport matters that have not been devolved to Scotland, Wales and Northern Ireland. The DfT is responsible for awarding passenger franchises to train operating companies and for the allocation of public support to railway undertakings and infrastructure managers across England and Wales.
- **Transport Scotland** (www.transportscotland.gov.uk) is the national transport agency for Scotland. It has responsibility for rail transport in Scotland, and is accountable to the Scottish Executive in Holyrood.

28.4 Legal Framework

28.4.1 European Directive 2001/12/EC was transposed into national law in the UK in November 2005 (Statutory Instrument 2005 No. 3049; see http://www.opsi.gov.uk/si/si2005/20053049.htm for the full text).

28.4.2 The specific legislation requiring separation of accounts between railway undertakings and infrastructure managers can be found in Part 3 of Statutory Instrument 2005 No. 3049:

> ***The Railways Infrastructure (Access and Management) Regulations 2005***
>
> ***PART 3…***
>
> ***Management independence***
>
> ***8.*** *—(1) Railway undertakings must, in their management, administration and internal control over administrative, economic and accounting matters, maintain the status of an independent operator and hold, in particular, assets, budgets and accounts which are separate from those of the State.*
>
> *(2) Subject to the requirements set out in Parts 4 and 5 and Schedules 3 and 4 about the determination of infrastructure charges and the allocation of infrastructure capacity an infrastructure manager must be responsible for its own management, administration and internal control.*
>
> *(3) Railway undertakings must keep and publish profit and loss accounts and either balance sheets or annual statements of assets and liabilities for business relating to the provision of rail-freight transport services.*

(4) Funds paid for activities relating to the provision of passenger-transport services as public-service remits must be shown separately in the relevant accounts and may not be transferred to activities relating to the provision of other transport services or any other business.

Separation between infrastructure management and transport operations

***9.** —(1) Any body which incorporates the functions of both infrastructure manager and railway undertaking must—*

(a) prepare and publish separate profit and loss accounts and balance sheets in respect of business relating to the—

(i) provision of transport services as a railway undertaking; and

(ii) management of railway infrastructure; and

(b) ensure that public funds granted to such a body are not transferred between that part of the body responsible for the provision of transport services and that responsible for the management of railway infrastructure.

(2) Accounts for the two areas of activity described in paragraph (1) must be kept in such a way as to reflect the prohibition set out in that paragraph.

Table 351 Transposition of EC Directive 2001/EC/12

Article	Issue	Transposition	Law
6.1	'Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are **kept** (emphasis added)…, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure..'	Yes	'Any body which incorporates the functions of both infrastructure manager and railway undertaking must— (a) prepare and publish separate profit and loss accounts and balance sheets in respect of business relating to the— (i) provision of transport services as a railway undertaking; and (ii) management of railway infrastructure' *Article 9(1)(a)*
6.1(a)	Requirement to publish separated accounts	Yes	(a) prepare and publish separate profit and loss accounts and balance sheets in respect of business relating to the—
6.1	'Public funds paid to one of these two areas of activity may not be transferred to the other.'	Yes	'Any body which incorporates the functions of both infrastructure manager and railway undertaking

			must—… … (b) ensure that public funds granted to such a body are not transferred between that part of the body responsible for the provision of transport services and that responsible for the management of railway infrastructure.' *Article 9(1)(b)*
6.1	'The accounts for the two areas of activity shall be kept in a way that reflects this prohibition.'	Yes	'Accounts for the two areas of activity described in paragraph (1) must be kept in such a way as to reflect the prohibition set out in that paragraph' *Article 9(2)*
6.2	'Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure shall be managed by a separate entity.'	Yes	The UK rail industry's separation predates the directives. The word 'may' implies that this point is optional.
9.4	'In the case of railway undertakings profit and loss accounts and either balance sheets or annual statements of assets and liabilities shall be **kept** (emphasis added)…for businesses relating to the provision of rail freight transport services.'	Yes	'Railway undertakings must keep and publish profit and loss accounts and either balance sheets or annual statements of assets and liabilities for business relating to the provision of rail-freight transport services.' *Article 8(1)*
9.4(a)	Requirement to publish separated accounts.	Yes	'Railway undertakings must keep and publish profit and loss accounts and either balance sheets or annual statements of assets and liabilities for business relating to the provision of rail-freight transport services.'
9.4	'Funds paid for activities relating to the provision of passenger-transport services as public service remits must be shown separately in the relevant accounts…'	Yes	'Funds paid for activities relating to the provision of passenger-transport services as public-service remits must be shown separately in the relevant accounts…' *Article 8(4)*
9.4	'…and may not be transferred to activities relating to the provision of other transport services or any other business.'	Yes	'…and may not be transferred to activities relating to the provision of other transport services or any other business.' *Article 8(4)*

28.4.3 It is unclear from the legislation who is responsible for overseeing its implementation. There is no reference to a regulator or other body who will perform this function.

28.4.4 As the table shows, the UK appears to have fully transposed the large majority of the directive. Although article 6.2 is missing, it may have been considered unnecessary, as the industry has been vertically separated since it was privatised in 1994.

28.5 Compliance with EC Directive

In this section we summarise whether the passenger train operating companies, the freight train operating companies and the rail infrastructure managers respectively have complied with the requirements of EC Directive 2001/EC/12.

Table 352 Overview of compliance for passenger train operating companies

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Passenger train operating companies in Great Britain are not responsible for managing the track infrastructure. Great Britain's infrastructure manager (Network Rail) is a separate company and as such publishes separate P&L accounts and balance sheets.
6.1(a)	Requirement to publish separated accounts	Yes	See above
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	Some passenger train operating companies receive public funding as part of their franchise agreement. Since this public funding is not earmarked for a specific purpose, it is not clear whether public funds are transferred from the railway undertakings to the infrastructure manager. Note that the passenger train operating companies pay the infrastructure manager for access to the railway network. Network Rail also receives direct public support in the form of the Network Grant. Again, it is not clear how this is used and potentially it could affect the level of the access charges Network Rail levies on the passenger train operating companies. It should be noted, that the track access charges paid to Network Rail are regulated. It therefore seems likely that charges will reflect the costs that rail operators impose on Network Rail through their use of the network. This price regulation therefore should limit the scope for the transfer of public funds between the infrastructure manager and rail operators. We have not encountered any evidence suggesting the transfer of public funds is occurring.
6.1	Accounts kept in a way which	No	Very detailed information would be

	reflects this prohibition		required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Great Britain and is not provided by the passenger companies. Please see chapter 29 for further information on the requisite information.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	Passenger train operating companies in Great Britain are not responsible for managing the track infrastructure. Instead, the mainline network infrastructure is managed by a separate company, Network Rail.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	No train operating companies in Great Britain simultaneously provide both passenger and freight services.
9.4(a)	Requirement to publish separated accounts	Yes	See above.
9.4	Funds for PSO transport activities shown separately in accounts	No	Because public revenue grants are not typically earmarked for a specific purpose, funds used for PSO activities are not shown separately in rail operating companies' accounts
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	Very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Great Britain. We have not encountered any evidence suggesting that PSO funds are being illegally transferred.

Table 353 Overview of compliance for freight train operating companies

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Freight train operating companies in Great Britain are not responsible for managing the track infrastructure. Great Britain's infrastructure manager (Network Rail) is a separate company and as such publishes separate P&L accounts and balance sheets.
6.1(a)	Requirement to publish separated accounts	Yes	See above

6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	Freight train operating companies receive public funding in the form of Freight Facilities Grants and Rail Environmental Benefits Procedures (REPs). In addition to this, Network Rail receives direct public support in the form of the Network Grant. It is not clear from Network Rail's statutory accounts how this grant is used and potentially it could affect the level of the access charges Network Rail levies on the freight operating companies It should be noted, that the track access charges paid to Network Rail are regulated. It therefore seems likely that charges will reflect the costs that rail operators impose on Network Rail through their use of the network. This price regulation therefore should limit the scope for the transfer of public funds between the infrastructure manager and rail operators. We have not encountered any evidence suggesting the transfer of public funds is occurring.
6.1	Accounts kept in a way which reflects this prohibition	Yes	No train operating companies in Great Britain simultaneously provide both passenger and freight or freight and infrastructure services.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	Freight operating companies in Great Britain are not responsible for managing the track infrastructure. Instead, the mainline network infrastructure is managed by a separate company, Network Rail.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	No train operating companies in Great Britain simultaneously provide both passenger and freight services.
9.4(a)	Requirement to publish separated accounts	Yes	No train operating companies in Great Britain simultaneously provide both passenger and freight services.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	Freight operating companies do not receive PSO grants.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	Freight operating companies do not receive PSO grants.

Table 354 Overview of compliance for companies responsible for infrastructure management

Article	Issue	Compliance	Comment
6.1	Separate P&L and balance sheets kept and published for railway undertakings and infrastructure managers	Yes	Network Rail only provides infrastructure management.
		No	The Channel Tunnel Group is responsible for both the Channel Tunnel infrastructure and the provision of Shuttle services. However, the company's accounts do not include separate P&L and balance sheets for these activities. We understand that Channel Tunnel is exempt from compliance with the directive.
6.1(a)	Requirement to publish separated accounts	Yes	Network rail publishes its accounts on the company website.
		No	Channel Tunnel does not publish separated accounts.
6.1	Prohibition on the transfer of public funds between infrastructure manager and rail operator	Yes	Network Rail receives direct public support in the form of the Network Grant. It is not clear how this is used and potentially it could affect the level of the access charges Network Rail levies on passenger and freight operating companies It should be noted, that the track access charges paid to Network Rail are regulated. It therefore seems likely that charges will reflect the costs that rail operators impose on Network Rail through their use of the network. This price regulation therefore should limit the scope for the transfer of public funds between the infrastructure manager and rail operators. We have not encountered any evidence suggesting the illegal transfer of funds is occurring.
		Yes	In the case of the Channel Tunnel Group, the lack of accounting separation makes it much harder to monitor compliance with the prohibition on the transfer of public funds. Hence. We have not encountered any evidence suggesting the illegal transfer of funds is occurring.
6.1	Accounts kept in a way which reflects this prohibition	Yes	Network Rail produces very detailed stand alone regulatory

			accounts.
		No	For Channel Tunnel Group, very detailed information would be required for accounts to be kept in a way which reflects this prohibition. This level of detail is beyond the requirements for statutory accounts in Great Britain.
6.2	Distinct divisions or separate entities for rail services and infrastructure management	Yes	Network Rail does not provide train services.
		Yes	By contrast, the Channel Tunnel Group is an integrated company in the sense that it is simultaneously responsible for maintaining the infrastructure of the Tunnel and the operation of Shuttle services. It is not clear from the company's accounts that distinct divisions exist for the provision of these services. However, as this point is optional, they remain compliant.
9.4	Separate P&L and balance sheets kept and published for freight operations.	Yes	Neither Network Rail nor the Channel Tunnel Group provide freight operations.
9.4(a)	Requirement to publish separated accounts	Yes	See above.
9.4	Funds for PSO transport activities shown separately in accounts	Yes	Neither Network Rail nor Eurotunnel provide conventional passenger train services, so neither company receives PSO funds for these activitirs.
9.4	Prohibition on transfer of PSO funds for passenger transport to other businesses	Yes	See above.

28.6 Financial analysis of rail undertakings in Great Britain (2004 – 2007)

In this section, we present a summary of the key findings of our financial analysis of the passenger train operating companies, the freight train operating companies, and the rail infrastructure managers in Britain, respectively. Please see the later sub-sections of this chapter for the company level financial data underlying this analysis.

28.6.1 **Passenger train operating companies**

28.6.2 The scale of operations of passenger train operating companies included in the study varied quite considerably, with turnover ranging from just over €50m to nearly €1.5bn. On average, revenues fell in the range of €400m-€500m.

28.6.3 Public funding over the period varied significantly from company to company. While some train operating companies (for example Gatwick Express and Fist Capital Connect) received no grant support at all, others (for example Northern Rail) derived most of their revenue from government grants. In 2007-8, the average subsidy (for the passenger train operating companies considered in this study) was less than €40m. This comparatively low figure reflects the fact that ten of the 21 companies (running profitable services) actually paid ‘negative’ subsidies to the government as part of their franchise agreements.

28.6.4 The majority of passenger train operating companies made operating profits during the period of study. Median operating profit margins fell in the range of 2-5%, while the median return on assets was in the range of 10-20%. As a general trend, operating profit margins increased modestly over the period. However, the operating margins and return on assets varied markedly across companies. For example, Eurostar (UK)’s operating margin remained in the range of -50% to -130% between 2004 and 2007, while First Transpennine Express enjoyed a consistent operating profit margin in the range of 8-14%. Similarly, whereas Eurostar (UK)’s return on assets varied between -70% and -160%, First Transpennine Express’ return on assets varied between 30% and 40%. While seven of the 21 companies enjoyed positive operating margins in each of the four years, two companies suffered consistent operating losses. However, with the exception of Eurostar, losses were generally modest.

28.6.5 Average annual operating cost per staff member was in the range of €0.2m - €0.3m over the period. On average, staff costs constituted about 20% of total operating costs. Revenue per passenger km ranged from €0.1m to nearly €0.5m, though the median (€0.15m) was closer to the lower end of the range.

28.6.6 A number of passenger train operating companies are very highly leveraged. The average debt:equity ratio over the study period was in the region of 10 - 30. To some extent, this average was skewed by the exceptional case of Eurostar UK Ltd, which in 2007 had debts in excess of €2bn. However, even excluding this special case, the degree of leverage remaines quite high and the median debt:equity ratio over the period was about 5.

28.6.7 The median current ratio over the period was close to unity, while the average was just over 1.1. This indicates that passenger train operating companies generally had enough current assets to offset current liabilities. However, there were some exceptions to this, for example, c2c, Chiltern Railways and Eurostar had current ratios that were consistently less than unity throughout the period.

28.6.8 Freight train operating companies

28.6.9 Average annual turnover for the five freight operating companies included in the study was in the region of €200m-€250m, in other words, markedly less than the average annual revenue for passenger train operating companies. Like passenger train operating companies, however, turnover varied significantly by company. For example, annual turnover for EWS (the UK’s largest incumbent rail freight operator) was in excess of €600m; by contrast, annual turnover for GB Railfreight (the smallest freight operator in the study) only just exceeded €50m in 2007.

28.6.10 With the exception of EWS, all of the freight operating companies included in the study made consistently positive operating profits between 2004 and 2007. EWS was the only company to make operating losses, although this only occurred in 2007-08. The median operating profit margin (about 6-8%) was higher than the median profit margin for passenger train operating companies in the study. By contrast, the median return on assets (5-15% over the period of study) was slightly lower than the median for passenger train operating companies (10-20%). This is likely to be due otthe fact that more freight companies own their rolling stock rather than leasing it and therefore have a higher asset base.

28.6.11 Average annual operating cost per staff member was in the range of €0.15m - €0.2m over the period of study (lower than the average for passenger train operating companies). However, freight companies' staff costs made up a slightly higher proportion of total operating costs (30-35%) than for passenger train operating companies.

28.6.12 The freight operating companies are generally less highly leveraged than the passenger rail operating companies. Both the average and the median debt:equity ratio were in the range of 1.5 – 2.1. Freightliner Heavy Haul had the highest debt:equity ratio (7.2 in 2007), while Direct Rail Services had the lowest (0.8 in 2007)

28.6.13 The average current ratio over the period of study was about 1.5 – in other words, higher than the average current ratio for passenger train operating companies. This indicates that passenger train operating companies generally had enough current assets to offset current liabilities. However, the exception to this was EWS, with a current ratio of less than one throughout the period of study.

28.6.14 **Infrastructure companies**

28.6.15 The financial indicators for the two companies responsible for rail infrastructure management in Great Britain, Network Rail and the Channel Tunnel Group, vary markedly. This is due to the different nature of the activites provided by each company. While Network Rail is responsible for managing almost all of the mainline rail infrastructure in Great Britain, the Channel Tunnel Group is only responsible for maintaining the infrastructure of the Channel Tunnel; and unlike Network Rail, the Channel Tunnel Group is an integrated company (providing Shuttle services through the Tunnel as well as maintaining the Tunnel's infrastructure),

28.6.16 Annual revenue for Network Rail increased from €5.6bn in 2004 to €8.4bn in 2008. Public funding consistently accounted for slightly more than half of this revenue. By contrast, the Channel Tunnel Group's annual revenue remained at about €400m over the period.

28.6.17 Network Rail made a positive operating profit margin in all four years of the period, increasing from 12% in 2004 to 41% in 2007. Its return on assets was negative in 2004 and 2005 (reflecting the net losses in these years), before turning positive (4-5%) in 2006 and 2007.

28.6.18 The Channel Tunnel Group's operating profit margin also improved over the period, though from a lower base. In 2004, the operating profit margin was -46%, but in 2007 it had increased to 35%. However, the company continued to make a net loss throughout the period, with the consequence that the return on assets was also negative (between -40% and 0%).

28.6.19 For Network Rail, staff costs constituted 30-40% of total operating costs. For the Channel Tunnel Group, staff costs technically constituted 0% of total operating costs because all staff were seconded from other companies.

28.6.20 Network Rail was highly leveraged over the period of study. The company's stock of debt stood at nearly €39bn in 2007, with a debt:equity ratio of nearly 4. By contrast, the Channel Tunnel Group's stock of debt stood at less than €4bn in 2007, though its negative equity for the year gave the company a debt:equity ratio of -54.

28.6.21 Both companies have markedly low current ratios: Network Rail's current ratio varied between 0.09 and 0.22 over the period, while Eurotunnel's ratio was even lower (varying between 0.01 and 0.15). This suggests that both companies are exposed to short term liabilities.

28.6.22 **Sources of Information**

The following sources of information were used to compile the information set out in this chapter:

- **Office of Rail Regulation** (www.rail-reg.gov.uk) – provided information regarding the general structure of the rail industry in Great Britain, as well as the implementation of the First Railway Package into UK law.
- **Department for Transport** (www.dft.gov.uk) – provided information regarding the public support made available to train operating companies and infrastructure managers in Great Britain.
- **Association of Train Operating Companies (ATOC)** (www.atoc.org) – discussions with experts from ATOC helped construct a detailed picture of both the regulation and the financing of passenger and freight rail operations in Great Britain.
- **Network Rail** (www.networkrail.co.uk) – provided financial and regulatory accounts and details regarding the direct and indirect forms of public support it receives.
- The **websites of companies responsible for railway passenger and freight operations** provided high-level information regarding the nature of their businesses.
- Financial statements for railway undertakings and infrastructure managers in Great Britain were either provided by the railway undertakings themselves or accessed from **Companies House** (www.companieshouse.gov.uk).

PASSENGER OPERATORS

28.7 ARRIVA TRAINS WALES / TRENAU ARRIVA CYMRU LTD

28.7.1 Arriva Trains Wales is a passenger rail franchise operating services in Wales and parts of England. Its 116 trains cover a route of over 1,009 miles and 237 stations.

28.7.2 The company is a subsidiary of Arriva plc.

28.7.3 Quality of financial statements

Table 355 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of PricewaterhouseCoopers LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 31 December 2007 and of its profit for the year then ended.[459]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) and rolling stock leasing companies are set out in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company is taking advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[459] Similar findings for the company's financial statements in preceding years

28.7.4 Public funding

Table 356 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	137.7	DfT	Not specified+	-	-	146.2	DfT	Not specified+	-	-	214.4	DfT	Not specified+	-	-	-27.1	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

28.7.5 Performance

Table 357 Summary Financial Data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	327.46	347.93	371.76	362.81
Passenger revenue	88.46	90.20	95.79	109.37
Total subsidisation	192.79	198.95	208.79	216.46
Wages, Salaries, Social Security Payments	79.10	84.70	93.20	95.59
Operating costs	315.72	336.99	361.63	349.13
Operating profit	11.74	10.95	10.13	13.68
Financial expenses	0.06	0.10	0.03	0.04
P&L on ordinary activities before tax	13.89	12.87	12.93	17.51
Total fixed assets	22.83	25.45	34.31	36.27
Long term receivables	-	-	-	-
Total current assets	58.28	77.52	74.66	66.09
Trade debtors	15.20	27.17	30.70	25.82
Other debtors	7.11	7.44	9.89	9.51
Current asset investments	-	-	-	-
Cash at bank and in hand	28.26	31.06	19.14	24.30
Creditors: <1yr (Current Liabilities)	50.23	63.53	66.49	70.33
Creditors: >1yr	4.39	3.60	3.60	2.16
Provisions for liabilities and charges	-	-	0.11	-
Equity	15.38	22.48	28.98	25.66
	No. / Million km			
Average no. employees	1,792	1,846	2,070	2,048
Passenger Kilometres (millions)	853	846	846	953

Note that passenger km data is for UK financial years (April to March) while the company's financial accounting data is for calendar years.

Table 358 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	327.46	347.93	371.76	362.81
Net profit (€m)	13.89	12.87	12.93	17.51
Operating profit (€m)	11.74	10.95	10.13	13.68
Total assets (€m)	81.11	102.97	108.98	102.36
Profitability				
Operating profit margin (%)	3.6%	3.1%	2.7%	3.8%
Net margin (%)	4.2%	3.7%	3.5%	4.8%
Return on assets (%)	17.1%	12.5%	11.9%	17.1%
Return on equity (%)	90.3%	57.3%	44.6%	68.2%
Viability ratio	1.04	1.03	1.03	1.04
Efficiency				
Liabilities / operating costs	0.17	0.20	0.19	0.21
Cost per staff member (€'m)	0.18	0.18	0.17	0.17
Staff costs as proportion of operating costs (%)	25.1%	25.1%	25.8%	27.4%
Total Revenue per Passenger Km (€)	0.10	0.11	0.11	0.11
Indebtedness				
Total debt of the company (€m)	54.61	67.13	70.09	72.49
Debt: Equity ratio	3.55	2.99	2.42	2.83
Quick ratio	1.01	1.03	0.90	0.85
Current ratio	1.16	1.22	1.12	0.94
Debt service coverage ratio	199.58	105.59	362.63	347.00
Public funding				
Total public income (€m)	192.79	198.95	208.79	216.46
Public funding / costs (%)	61%	59%	58%	62%
Public funding / revenue (%)	59%	57%	56%	60%

Note that passenger km data is for UK financial years (April to March) while the company's financial accounting data is for calendar years. Hence the revenue per passenger km metric may be slightly inaccurate due to the misalignment.

28.8 C2C RAIL LTD

28.8.1 c2c is a passenger railway undertaking that runs high frequency ('turn-up-and-go') commuter rail services between London Fenchurch Street and Shoeburyness in Essex.

28.8.2 c2c is a subsidiary of National Express Group plc.

28.8.3 Quality of financial statements

Table 359 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Ernst & Young LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 31 December 2007 and of its loss for the year then ended[460]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) and rolling stock companies are set out in the notes to the financial statements.
Visibility of intragroup transfers	Partial	The company is taking advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties. However, the notes do set out transactions between the company and thetrainline.com, a subsidiary of Trainline Holdings Ltd, which was 14% owned by a fellow subsidiary of the company.

[460] Similar findings for the company's financial statements in preceding years

28.8.4 Public funding

Table 360 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	7.5	DfT	Not specified+	-	-	-3.1	DfT	Not specified+	-	-	27.3	DfT	Not specified+	-	-	15.8	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

28.8.5 Performance

Table 361 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	138.42	136.21	172.60	155.68
Passenger revenue	113.45	116.38	127.17	140.03
Total subsidisation	18.90	13.26	23.69	25.39
Wages, Salaries, Social Security Payments	25.35	24.01	27.44	24.73
Operating costs	141.35	139.76	182.99	157.84
Operating profit	(2.94)	(3.55)	(10.76)	(2.16)
Financial expenses	3.00	1.28	1.44	1.34
P&L on ordinary activities before tax	(2.74)	(3.18)	(1.60)	(9.93)
Total fixed assets	23.38	23.09	20.29	17.74
Long Term receivables	-	-	-	-
Total current assets	57.83	54.67	57.65	52.16
Trade debtors	9.62	8.01	10.16	9.47
Other debtors	2.39	2.70	5.59	5.37
Current asset investments	-	-	-	-
Cash at bank and in hand	22.92	26.02	27.21	28.19
Creditors: <1yr (Current Liabilities)	79.01	77.14	78.59	76.99
Creditors: >1yr	0.10	0.09	0.81	0.90
Provisions for liabilities and charges	0.97	1.39	0.37	1.35
Equity	0.22	(3.13)	(3.17)	(9.47)
	No. / Million km			
Average no. employees	628	610	570	602
Passenger Kilometres (millions)	853	823	844	917

Note that passenger km data is for UK financial years (April to March) while the company's financial accounting data is for calendar years.

Table 362 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	138.42	136.21	172.60	155.68
Net profit (€m)	(2.74)	(3.18)	(1.60)	(9.93)
Operating profit (€m)	(2.94)	(3.55)	(10.76)	(2.16)
Total assets (€m)	81.21	77.76	77.94	69.90
Profitability				
Operating profit margin (%)	-2.1%	(0.03)	(0.06)	(0.01)
Net margin (%)	-2.0%	(0.02)	(0.01)	(0.06)
Return on assets (%)	-3.4%	(0.04)	(0.02)	(0.14)
Return on equity (%)	-1227.6%	1.02	0.50	1.05
Viability ratio	0.98	0.97	0.94	0.99
Efficiency				
Liabilities / operating costs	0.57	0.56	0.44	0.50
Cost per staff member (€'m)	0.23	0.23	0.32	0.26
Staff costs as proportion of operating costs (%)	17.9%	0.17	0.15	0.16
Total Revenue per Passenger Km (€)	0.13	0.14	0.15	0.15
Indebtedness				
Total debt of the company (€m)	79.11	77.23	79.40	77.89
Debt: Equity ratio	354.06	(24.70)	(25.04)	(8.23)
Quick ratio	0.44	0.48	0.55	0.56
Current ratio	0.73	0.71	0.73	0.68
Debt service coverage ratio	(0.98)	(2.77)	(7.47)	(1.62)
Public funding				
Total public income (€m)	18.90	13.26	23.69	25.39
Public funding / costs (%)	13.4%	0.09	0.13	0.16
Public funding / revenue (%)	13.7%	0.10	0.14	0.16

Note that passenger km data is for UK financial years (April to March) while the company's financial accounting data is for calendar years. Hence the revenue per passenger km metric may be slightly inaccurate due to the misalignment.

28.9 CROSSCOUNTRY TRAINS LTD / XC TRAINS LTD

28.9.1 The cross country rail franchise is an intercity passenger rail franchise connecting a number of regional cities across England, Wales and Scotland, but not London. The franchise has its hub at Birmingham, with frequent services to Manchester, Sheffield, Reading and Bristol. Less frequent services also operate to and from Glasgow, Edinburgh, Aberdeen, Brighton, Bournemouth, Stansted Airport, Cardiff and Penzance.

28.9.2 Until November 2007, the cross country franchise was operated by CrossCountry Trains Ltd, a subsidiary of Virgin Rail Group. After this date the franchise expired and a new, slightly re-mapped cross country franchise was introduced. This new franchise is now operated by XC Trains Ltd, a subsidiary of Arriva UK Trains Ltd. The first full year's accounts are not yet available for XC Trains, hence all the information presented here relates to XC Trains' predecessor, CrossCountry Trains Ltd.

28.9.3 Quality of financial statements

Table 363 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of KPMG LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 3 March 2007 and of its profit for the year then ended[461]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) and rolling stock companies are set out in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company takes advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[461] Similar findings for the company's financial statements in preceding years

28.9.4 Public funding

Table 364 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	162.8	DfT	Not specified+	-	-	220.8	DfT	Not specified+	-	-	340.4	DfT	Not specified+	-	-	246.5	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

Note that all grant information is for CrossCountry Trains Ltd, except for the 2007-08 figure, which sums together the grants made available to CrossCountry Trains Ltd and XC Trains Ltd (XC Trains Ltd took over franchise operations in November 2007).

28.9.5 Performance

Table 365 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	833.65	583.99	605.33	696.99
Passenger revenue	299.68	327.91	353.09	398.38
Total subsidisation	345.69	200.15	221.66	268.61
Wages, Salaries, Social Security Payments	79.10	85.33	86.12	87.72
Operating costs	639.75	591.74	597.34	695.67
Operating profit	193.89	(7.75)	7.99	1.33
Financial expenses	8.09	1.09	1.01	1.01
P&L on ordinary activities before tax	186.92	(6.07)	9.03	4.18
Total fixed assets	5.06	3.28	2.53	1.14
Long Term receivables	10.30	7.50	2.32	-
Total current assets	149.41	109.23	154.25	170.22
Trade debtors	17.29	46.09	50.40	92.84
Other debtors	14.17	7.28	69.39	16.43
Current asset investments	-	-	-	-
Cash at bank and in hand	72.79	23.07	7.82	38.12
Creditors: <1yr (Current Liabilities)	135.82	98.93	137.07	153.27
Creditors: >1yr	13.49	13.48	13.23	13.32
Provisions for liabilities and charges	0.32	0.28	-	-
Equity	4.85	(2.34)	5.98	3.79
	No. / Million km			
Average no. employees	1,730	1,736	1,699	1,680
Passenger Kilometres (millions)	2,666	2,542	2,640	2,925

Note that all this information relates to CrossCountry Trains Ltd, which operated the cross country franchise until November 2007.

All data is for years ending in the first week of March: in other words, '2004' refers to the year ending in the first week of March 2004 and so on.

Table 366 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	833.65	583.99	605.33	696.99
Net profit (€m)	186.92	(6.07)	9.03	4.18
Operating profit (€m)	193.89	(7.75)	7.99	1.33
Total assets (€m)	164.77	120.02	159.10	171.36
Profitability				
Operating profit margin (%)	23.3%	-1.3%	1.3%	0.2%
Net margin (%)	22.4%	-1.0%	1.5%	0.6%
Return on assets (%)	113.4%	-5.1%	5.7%	2.4%
Return on equity (%)	3854.2%	259.2%	151.1%	110.2%
Viability ratio	1.30	0.99	1.01	1.00
Efficiency				
Liabilities / operating costs	0.23	0.19	0.25	0.24
Cost per staff member (€'m)	0.37	0.34	0.35	0.41
Staff costs as proportion of operating costs (%)	12.4%	14.4%	14.4%	12.6%
Total Revenue per Passenger Km (€)	0.11	0.13	0.13	0.14
Indebtedness				
Total debt of the company (€m)	149.30	112.41	150.30	166.59
Debt: Equity ratio	30.78	(48.00)	25.15	43.95
Quick ratio	0.77	0.77	0.93	0.96
Current ratio	1.10	1.10	1.13	1.11
Debt service coverage ratio	23.96	(7.08)	7.91	1.31
Public funding				
Total public income (€m)	345.69	200.15	221.66	268.61
Public funding / costs (%)	54.0%	33.8%	37.1%	38.6%
Public funding / revenue (%)	41.5%	34.3%	36.6%	38.5%

Note that all this information relates to CrossCountry Trains Ltd, which operated the cross country franchise until November 2007.

All data is for years ending in the first week of March: in other words, ‘2004’ refers to the year ending in the first week of March 2004 and so on.

28.10 EUROSTAR (U.K.) LTD

28.10.1 Eurostar (U.K.) Ltd (EUKL) operates high-speed passenger railway services between London St Pancras International and the near Continent via the Channel Tunnel. Eurostar trains now operate on the new ‘High Speed 1’ line under London and through Kent, allowing services to reach speeds of 300km/h.

28.10.2 EUKL operates Eurostar services in conjunction with Société Nationale des Chemins de fer Français (SNCF) in France and Société Nationale des Chemins de fer Belges (SNCB) in Belgium. The company’s immediate and ultimate parent is London & Continental Railways (LCR), which was also responsible for the construction of the high-speed Channel Tunnel Rail Link (CTRL) from the Channel Tunnel portal in Kent to St. Pancras Station in London between 1996 and 2007.

28.10.3 Quality of financial statements

Table 367 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of KPMG Audit Plc the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 31 December 2007 and of its loss for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[462]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to infrastructure managers (Network Rail, Eurotunnel and HS1) are set out in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company is taking advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[462] Similar findings for the company's financial statements in preceding years

28.10.4 Public funding

28.10.5 There is a lack of transparency in EUKL's financial statements regarding the nature and extent of public support made available to the company. Consequently, a table of public funding has not been drawn up for this company.

28.10.6 However, details of the public funding committed to both EUKL and its parent company London & Continental Railways (LCR) was disclosed in a series of state aid decisions issued by the European Commission between 1996 and 2003. These decisions related to the construction of the Channel Tunnel Rail Link (CTRL), a high-speed rail link between the Channel Tunnel portal in Kent and St. Pancras Station in London. The CTRL was constructed by LCR in two sections between 1996 and 2007. Due to a series of financial complications, the CTRL project was restructured more than once, with the revised arrangements (henceforth referred to as CTRL I-IV) being authorised by the European Commission on each occasion.

28.10.7 Public support for LCR and EUKL therefore underwent a series of permutations during the construction of the CTRL. A summary of the overall amount of funding agreed for both companies in relation to the whole project, following the 2002 restructuring is set out in the table below:

Public support measure	Amount of aid*	Beneficiary	Description of measure
Capital grant	€877m	LCR	Reserved for the construction of the first section of the CTRL
Deferred grant	€1,637m	LCR	Initially reserved for the construction of the second section of the CTRL. However, following Railtrack Group's withdrawal from the CTRL project, it was considered necessary to amend the conditions attached to this grant to permit LCR to use it to secure financing of the first section of the CTRL and to meet additional financing needs.
Domestic Capacity Charges	€657m	LCR	Government payments to LCR to compensate the company for reserving track capacity for the operation of domestic services.
Government guaranteed bonds	€5,925m	LCR and/or the final infratructure manager of CTRL	A Government guarantee against bonds issued by LCR for the construction of the CTRL. Following the withdrawal of Railtrack Group from the CTRL project, LCR was permitted to use part of the proceeds of these bonds to finance the acquisition of Railtrack's subsidiary, Railtrack UK Limited.
Track access charge guarantee	n/a	LCR	A Government guarantee of all track access charge payments from EUKL to LCR (or any successor operator on the CTRL for 50 years)
Track Access Charge support	up to €291m	EUKL and/or the final infratructure manager of CTRL	Designed to ensure that EUKL will have sufficient funds to pay track access charges. This financial support is made by way of a loan facility. Loan advances may not exceed the access charges payable by EUKL.
Hedging Guarantees	€21m unlimited Government exposure	LCR	Designed to help LCR to enter into interest swaps with other parties, in order to hedge its exposure to interest rate movements.
Interoperability costs	n/a	LCR	The costs of any design changes, including associated delay costs, associated solely with the technical specifications of interoperability under Directive 96/48 will be treated as a Government expense.

Source: European Commission CTRL IV decision letter of 18/09/2002 (State aid N 523/2002)

* Using €/£ exchange rate of 1.58 (the spot rate reported for 18/09/2002, the date of the Commission's publication of the decision on CTRL IV)

28.10.8 Performance

Table 368 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	310.02	322.51	344.42	390.11
Passenger revenue	*	*	*	*
Total subsidisation	*	*	*	*
Wages, Salaries, Social Security Payments	58.80	62.34	67.18	78.11
Operating costs	708.25	505.74	537.87	670.87
Operating profit	(398.22)	(183.23)	(193.45)	(280.76)
Financial expenses	16.76	17.67	17.20	17.81
P&L on ordinary activities before tax	(406.75)	(180.60)	(210.36)	(293.31)
Total fixed assets	121.28	92.56	89.82	84.68
Long Term receivables	-	-	-	-
Total current assets	134.65	139.43	145.09	168.05
Trade debtors	9.41	7.88	12.35	12.99
Other debtors	75.26	78.26	74.24	82.49
Current asset investments	-	-	-	-
Cash at bank and in hand	13.97	10.51	12.50	8.47
Creditors: <1yr (Current Liabilities)	1,613.47	1,768.64	2,001.85	2,247.52
Creditors: >1yr	498.04	487.79	480.98	465.30
Provisions for liabilities and charges	0.88	-	0.74	66.58
Equity	(1,856.46)	(2,024.44)	(2,248.66)	(2,526.68)
				No. / Million km
Average no. employees	1,290	1,323	1,330	1,376
Passenger Kilometres (millions)	*	*	*	*

* Data unavailable

Table 369 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	310.02	322.51	344.42	390.11
Net profit (€m)	(406.75)	(180.60)	(210.36)	(293.31)
Operating profit (€m)	(398.22)	(183.23)	(193.45)	(280.76)
Total assets (€m)	255.93	231.99	234.91	252.73
Profitability				
Operating profit margin (%)	-128.4%	-56.8%	-56.2%	-72.0%
Net margin (%)	-131.2%	-56.0%	-61.1%	-75.2%
Return on assets (%)	-158.9%	-77.8%	-89.5%	-116.1%
Return on equity (%)	21.9%	8.9%	9.4%	11.6%
Viability ratio	0.44	0.64	0.64	0.58
Efficiency				
Liabilities / operating costs	2.98	4.46	4.62	4.14
Cost per staff member (€'m)	0.55	0.38	0.40	0.49
Staff costs as proportion of operating costs (%)	8.3%	12.3%	12.5%	11.6%
Total Revenue per Passenger Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	2,111.51	2,256.43	2,482.83	2,712.83
Debt: Equity ratio	(1.14)	(1.11)	(1.10)	(1.07)
Quick ratio	0.06	0.05	0.05	0.05
Current ratio	0.08	0.08	0.07	0.07
Debt service coverage ratio	(23.76)	(10.37)	(11.25)	(15.76)
Public funding				
Total public income (€m)	*	*	*	*
Public funding / costs (%)	*	*	*	*
Public funding / revenue (%)	*	*	*	*

* Insufficient information to calculate ratio

28.11 FIRST CAPITAL CONNECT LTD

28.11.1 First Capital Connect Ltd is a passenger train operating company responsible for the capital connect franchise that runs through London and South East England. The company started operations in April 2006 following the decision to merge two pre-existing franchises: Thameslink (operating high frequency turn-up-and-go services through London from Brighton to Bedford) and the Great Northern Route (running services from London King's Cross to Peterborough and Cambridge). The two franchises were merged in order to facilitate a major upgrade of the quality, frequency and interconnectedness of services running through London.

28.11.2 First Capital Connect Ltd is a subsidiary of FirstGroup plc. Prior to April 2006, the Thameslink franchise had been operated by Thameslink Rail Ltd (a subsidiary of the Go-Ahead Group plc) and the Great Northern Route had been operated by West Anglia Great Northern Railway Ltd (a subsidiary of National Express Group).

28.11.3 Quality of financial statements

Note that the information set out in the table below relates to the current operator, First Capital Connect Ltd, and not to the companies responsible for operating the Thameslink and Great Northern routes prior to April 2006.

Table 370 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year 31 March 2008 and of its profit for the year then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[463]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Partial	Charges payable to Network Rail (the infrastructure manager) and rolling stock companies are collectively reported as "Other external charges" in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company is taking advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[463] Similar findings for the company's financial statements in preceding years

28.11.4 Public funding

Table 371 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-	0.0	-	-	-	-
Equity	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	-21.2	DfT	Not specified+	-	-	-103.2	DfT	Not specified+	-	-
Debt Write-offs	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-	0.0	-	-	-	-
Other	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

28.11.5 Performance

Table 372 Summary financial data

Summary financial data	2005	2006	2007	2008
Metric	**Million Euros**			
Total revenue			534.57	576.31
Passenger revenue			534.57	576.31
Total subsidisation			-	-
Wages, Salaries, Social Security Payments			103.74	105.55
Operating costs			522.65	551.35
Operating profit			11.92	24.96
Financial expenses			7.84	8.91
P&L on ordinary activities before tax			18.29	31.75
Total fixed assets			32.72	35.02
Long Term receivables			-	-
Total current assets			114.54	154.54
Trade debtors			26.91	37.38
Other debtors			2.76	0.01
Current asset investments			-	-
Cash at bank and in hand			71.54	105.39
Creditors: <1yr (Current Liabilities)			134.92	174.42
Creditors: >1yr			-	-
Provisions for liabilities and charges			-	0.45
Equity			3.70	6.88
	No. / Million km			
Average no. employees			2,018	2,059
Passenger Kilometres (millions)			3,020	3,212

Note that operations on the new franchise commenced in 2006. All data is for April to March: for example, 2008 denotes the year ending in March 2008.

Table 373 Financial Ratios

Financial indicators	2005	2006	2007	2008
Metric				
Performance				
Revenues (€m)			534.57	576.31
Net profit (€m)			18.29	31.75
Operating profit (€m)			11.92	24.96
Total assets (€m)			147.26	189.56
Profitability				
Operating profit margin (%)			2.2%	4.3%
Net margin (%)			3.4%	5.5%
Return on assets (%)			12.4%	16.7%
Return on equity (%)			494.1%	461.2%
Viability ratio			1.02	1.05
Efficiency				
Liabilities / operating costs			0.27	0.33
Cost per staff member (€'m)			0.26	0.27
Staff costs as proportion of operating costs (%)			19.8%	19.1%
Total Revenue per Passenger Km (€)			0.18	0.18
Indebtedness				
Total debt of the company (€m)			134.92	174.42
Debt: Equity ratio			36.45	25.34
Quick ratio			0.75	0.82
Current ratio			0.85	0.89
Debt service coverage ratio			1.52	2.80
Public funding				
Total public income (€m)			0.00	0.00
Public funding / costs (%)			0.0%	0.0%
Public funding / revenue (%)			0.0%	0.0%

Note that operations on the new franchise commenced in 2006. All data is for April to March: for example, 2008 denotes the year ending in March 2008.

28.12 FIRST GREATER WESTERN LTD

28.12.1 First Greater Western operates intercity passenger rail services between London Paddington and Bristol, South Wales, the West of England and the Cotswolds. It also operates commuter services between London Paddington and the Thames Valley and regional services in the West of England.

28.12.2 The Greater Western franchise commenced operations in April 2006. Prior to this date, the routes had been split into three separate franchises, each operated by a separate company. These were:

(i) intercity routes between Paddington and South Wales, the West of England and the Cotswolds, which were operated by Great Western Trains Company Ltd;

(ii) commuter services to the West of London together with long-distance services on the Cotswolds line, which were operated by First Great Western Link Ltd; and

(iii) routes between Routes in the West of England, which were operated by Wales & West Passenger Trains Ltd (under the brand name of Wessex Trains).

28.12.3 First Greater Western Ltd is a subsidiary of FirstGroup plc. Before the new combined franchise commenced operations, FirstGroup plc had also been the ultimate parent company of Great Western Trains Company Ltd and First Great

Western Link Ltd. Wales & West Passenger Trains Ltd operated as a subsidiary of National Express Group plc.

28.12.4 Quality of financial statements

Note that the information set out in the table below relates to the current operator, First Greater Western Ltd, and not to the three companies responsible for services prior to the creation of the unified Greater Western franchise.

Table 374 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year 31 March 2007 and of its profit for the year then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Partial	Charges payable to Network Rail (the infrastructure manager) and rolling stock companies are collectively reported as "Other external charges" in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company is taking advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

28.12.5 Public funding

Table 375 Public Funding

Year[†]	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-	0.0	-	-	-	-
Equity	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	143.7	DfT	Not specified[+]	-	-	-6.2	DfT	Not specified[+]	-	-
Debt Write-offs	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-	0.0	-	-	-	-
Other	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

[†] Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

[+] Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

28.12.6 Performance

Table 376 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue				1,038.19
Passenger revenue				*
Total subsidisation				*
Wages, Salaries, Social Security Payments				218.13
Operating costs				1,017.50
Operating profit				20.69
Financial expenses				18.87
P&L on ordinary activities before tax				28.87
Total fixed assets				111.66
Long Term receivables				-
Total current assets				131.10
Trade debtors				49.37
Other debtors				0.10
Current asset investments				-
Cash at bank and in hand				43.18
Creditors: <1yr (Current Liabilities)				217.65
Creditors: >1yr				-
Provisions for liabilities and charges				-
Equity				6.02
	No. / Million km			
Average no. employees				4,454
Passenger Kilometres (millions)				4,736

* Data unavailable

Note that the information in this table is for the financial year April 2006 to March 2007 (First Greater Western Trains commenced operations in April 2006).

Table 377 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)				1,038.19
Net profit (€m)				28.87
Operating profit (€m)				20.69
Total assets (€m)				242.76
Profitability				
Operating profit margin (%)				2.0%
Net margin (%)				2.8%
Return on assets (%)				11.9%
Return on equity (%)				479.5%
Viability ratio				1.02
Efficiency				
Liabilities / operating costs				0.21
Cost per staff member (€'m)				0.23
Staff costs as proportion of operating costs (%)				21.4%
Total Revenue per Passenger Km (€)				219
Indebtedness				
Total debt of the company (€m)				217.65
Debt: Equity ratio				36.14
Quick ratio				0.43
Current ratio				0.60
Debt service coverage ratio				1.10
Public funding				
Total public income (€m)				*
Public funding / costs (%)				*
Public funding / revenue (%)				*

* Insufficient data in accounts to calculate these metrics

Note that the information in this table is for the financial year April 2006 to March 2007 (First Greater Western Trains commenced operations in April 2006).

28.13 FIRST SCOTRAIL LTD

28.13.1 First ScotRail Ltd is the company responsible for operating passenger railway services in Scotland, along with sleeper services between Scotland and London Euston.

28.13.2 The company commenced operations in October 2004. Prior to that date the franchise was operated by ScotRail Railways Ltd.

28.13.3 First ScotRail Ltd is a subsidiary of FirstGroup plc. Its predecessor ScotRail Railways Ltd was a subsidiary of National Express Group plc.

28.13.4 Quality of financial statements

Note that the information set out in the tableTable 374 below relates to the current operator, First ScotRail Ltd, and not to its predecessor ScotRail Railways Ltd.

Table 378 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year 31 March 2007 and of its profit for the year then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[464]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Partial	Charges payable to Network Rail (the infrastructure manager) and rolling stock companies are collectively reported as "Other external charges" in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company is taking advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[464] Similar findings for the company's financial statements in preceding years

28.13.5 Public funding

Table 379 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	83.9	DfT	Not specified+	-	-	174.3	DfT	Not specified+	-	-	405.8	DfT	Not specified+	-	-	-57.3	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

28.13.6 Performance

Table 380 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue		269.10	594.88	731.63
Passenger revenue		111.70	268.91	294.31
Total subsidisation		145.71	296.34	400.78
Wages, Salaries, Social Security Payments		63.95	148.21	164.15
Operating costs		265.12	582.14	714.76
Operating profit		3.98	12.74	16.87
Financial expenses		7.25	15.05	15.66
P&L on ordinary activities before tax		5.09	17.19	24.45
Total fixed assets		29.50	38.26	61.96
Long Term receivables		-	-	-
Total current assets		157.59	138.48	182.59
Trade debtors		7.66	9.01	17.28
Other debtors		1.50	1.61	4.00
Current asset investments		-	-	-
Cash at bank and in hand		75.06	58.38	62.95
Creditors: <1yr (Current Liabilities)		154.84	127.56	198.26
Creditors: >1yr		2.82	5.25	16.33
Provisions for liabilities and charges		23.81	12.53	6.25
Equity		5.62	31.39	23.71
	No. / Million km			
Average no. employees		3,576	3,930	4,113
Passenger Kilometres (millions)		993	2,347	2,406

Note that the information in this table is for the financial years beginning in April and ending the following March: for example, 2007 denotes the year ending in March 2007.

First ScotRail Ltd commenced operations in October 2004. The financial statements for 2005 therefore relate to a 6-month period (October 2004 to March 2005).

Table 381 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)		595.28	594.88	731.63
Net profit (€m)		11.25	17.19	24.45
Operating profit (€m)		8.80	12.74	16.87
Total assets (€m)		187.09	176.74	244.55
Profitability				
Operating profit margin (%)		1.5%	2.1%	2.3%
Net margin (%)		1.9%	2.9%	3.3%
Return on assets (%)		6.0%	9.7%	10.0%
Return on equity (%)		200.4%	54.8%	103.1%
Viability ratio		1.02	1.02	1.02
Efficiency				
Liabilities / operating costs		0.31	0.25	0.31
Cost per staff member (€'m)		0.16	0.15	0.17
Staff costs as proportion of operating costs (%)		24.1%	25.5%	23.0%
Total Revenue per Passenger Km (€)		0.11	0.11	0.12
Indebtedness				
Total debt of the company (€m)		157.66	132.81	214.60
Debt: Equity ratio		28.07	4.23	9.05
Quick ratio		0.54	0.54	0.42
Current ratio		1.02	1.09	0.92
Debt service coverage ratio		0.55	0.85	1.08
Public funding				
Total public income (€m)		322.32	296.34	400.78
Public funding / costs (%)		55.0%	50.9%	56.1%
Public funding / revenue (%)		54.1%	49.8%	54.8%

Note that the information in this table is for the financial years beginning in April and ending the following March: for example, 2007 denotes the year ending in March 2007.

First ScotRail Ltd commenced operations in October 2004. The financial statements for 2005 therefore relate to a 6-month period (October 2004 to March 2005). The financial indicators for 2005 shown above were calculated by scaling up the reported figures to represent a full year. This makes them comparable with the financial indicators for the following two years.

28.14 FIRST / KEOLIS TRANSPENNINE LTD

28.14.1 First / Keolis Transpennine Ltd operates passenger railway services in the North of England and into Scotland. The company has its hub at Manchester, running services North-East to Leeds, York, Tyneside and Teeside, East to Sheffield and Humberside, West to Liverpool and North to Glasgow and Edinburgh. The company operates under the brand name of First TransPennine Express (FTPE).

28.14.2 The immediate parent company of First/Keolis Transpennine Ltd is First/Keolis Transpennine Holdings Ltd. The ultimate parent companies are FirstGroup plc (the ultimate controlling party) and Keolis (UK) Ltd.

28.14.3 Quality of financial statements

Table 382 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year 31 March 2008 and of its profit for the year then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[465]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) and rolling stock companies are reported in the notes to the financial statements as costs for "Station & track access and facilities" and "External charges".
Visibility of intragroup transfers	Good	Full details of financial transactions with all related parties are set out in the notes to the financial statements.

[465] Similar findings for the company's financial statements in preceding years

28.14.4 Public funding

Table 383 Public Funding

Year†	2004-05					2005-06				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate
Loans	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	63.8	DfT	Not specified+	-	-	97.1	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-

Year†	2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	150.8	DfT	Not specified+	-	-	149.0	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

28.14.5 Performance

Table 384 Summary financial data

Summary financial data	**2005**	**2006**	**2007**	**2008**
Metric	**Million Euros**			
Total revenue	240.14	271.73	312.10	312.02
Passenger revenue	99.22	112.05	133.37	150.64
Total subsidisation	111.25	140.31	166.10	149.10
Wages, Salaries, Social Security Payments	41.97	46.80	52.75	52.06
Operating costs	218.81	242.66	279.72	269.16
Operating profit	21.06	29.07	32.06	41.79
Financial expenses	-	-	-	-
P&L on ordinary activities before tax	22.55	31.29	35.57	46.19
Total fixed assets	9.30	14.45	18.10	15.55
Long Term receivables	-	-	-	-
Total current assets	64.12	83.05	77.06	105.20
Trade debtors	26.62	15.75	16.81	18.44
Other debtors	2.12	1.68	2.96	2.85
Current asset investments	-	-	-	-
Cash at bank and in hand	30.91	64.07	50.72	73.86
Creditors: <1yr (Current Liabilities)	54.02	74.09	78.38	92.44
Creditors: >1yr	5.17	2.30	3.18	12.34
Provisions for liabilities and charges	4.06	2.43	(0.30)	1.85
Equity	10.16	18.68	13.90	14.12
	No. / Million km			
Average no. employees	875	973	1,005	1,000
Passenger Kilometres (millions)	776	828	942	1,070

Note that the information in this table is for the financial years beginning in April and ending the following March: for example, 2008 denotes the year ending March 2008

Table 385 Financial Ratios

Financial indicators	2005	2006	2007	2008
Metric				
Performance				
Revenues (€m)	240.14	271.73	312.10	312.02
Net profit (€m)	22.55	31.29	35.57	46.19
Operating profit (€m)	21.06	29.07	32.06	41.79
Total assets (€m)	73.41	97.50	95.16	120.75
Profitability				
Operating profit margin (%)	8.8%	10.7%	10.3%	13.4%
Net margin (%)	9.4%	11.5%	11.4%	14.8%
Return on assets (%)	30.7%	32.1%	37.4%	38.3%
Return on equity (%)	222.0%	167.5%	255.8%	327.1%
Viability ratio	1.10	1.12	1.12	1.16
Efficiency				
Liabilities / operating costs	0.29	0.32	0.29	0.40
Cost per staff member (€'m)	0.25	0.25	0.28	0.27
Staff costs as proportion of operating costs (%)	19.2%	19.3%	18.9%	19.3%
Total Revenue per Passenger Km (€)	0.13	0.14	0.14	0.14
Indebtedness				
Total debt of the company (€m)	59.20	76.38	81.56	104.78
Debt: Equity ratio	5.83	4.09	5.87	7.42
Quick ratio	1.10	1.10	0.90	1.03
Current ratio	1.19	1.12	0.98	1.14
Debt service coverage ratio	*	*	*	*
Public funding				
Total public income (€m)	111.25	140.31	166.10	149.10
Public funding / costs (%)	50.8%	57.8%	59.4%	55.4%
Public funding / revenue (%)	46.3%	51.6%	53.2%	47.8%

* Ratio cannot be calculated: the denominator (interest payable) is zero for all years.

Note that the information in this table is for the financial years beginning in April and ending the following March: for example, 2008 denotes the year ending March 2008.

28.15 GATWICK EXPRESS LTD

28.15.1 Gatwick Express Ltd operates passenger railway services between London Victoria and London Gatwick Airport. Services are high-frequency (every 15 minutes) and do not stop at intermediate destinations. In 2008, some of these services were extended from Gatwick to Brighton.

28.15.2 Before June 2008, Gatwick Express Ltd was operated as a subsidiary of National Express Group plc. Since then, however, the London-to-Gatwick franchise has been amalgamated into the Southern franchise. Gatwick Express services are now operated by New Southern Trains Ltd, a subsidiary of Go-Ahead Group plc. However, this development was too recent to be reflected yet in the figures of any financial statements published by New Southern Trains Ltd. The financial information set out in this section therefore relates exclusively to Gatwick Express Ltd, before it ceased trading in June 2008.

28.15.3 Quality of financial statements

Table 386 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Ernst & Young LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 31 December 2007 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[466]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) and rolling stock companies are set out in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company takes advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[466] Similar findings for the company's financial statements in preceding years

28.15.4 Public funding

Table 387 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	-26.8	DfT	Not specified+	-	-	-29.9	DfT	Not specified+	-	-	-22.1	DfT	Not specified+	-	-	-30.1	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

28.15.5 Performance

Table 388 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	78.20	82.01	91.90	98.93
Passenger revenue	78.05	81.85	91.75	98.77
Total subsidisation	-	-	-	-
Wages, Salaries, Social Security Payments	14.31	14.24	14.16	14.10
Operating costs	83.37	86.90	92.10	98.11
Operating profit	(5.18)	(4.89)	(0.19)	0.81
Financial expenses	0.00	0.01	0.01	0.01
P&L on ordinary activities before tax	(4.35)	(3.95)	0.70	2.00
Total fixed assets	1.54	0.97	0.66	0.47
Long Term receivables	-	-	-	-
Total current assets	19.55	18.83	21.94	27.14
Trade debtors	2.54	2.53	2.74	2.24
Other debtors	1.86	1.80	2.00	1.98
Current asset investments	-	-	-	-
Cash at bank and in hand	6.74	6.86	10.38	18.43
Creditors: <1yr (Current Liabilities)	11.83	13.12	15.37	19.24
Creditors: >1yr	-	-	-	-
Provisions for liabilities and charges	0.34	0.92	0.78	0.04
Equity	8.92	5.76	6.45	8.34
	No. / Million km			
Average no. employees	345	336	290	287
Passenger Kilometres (millions)	227	208	219	220

Note that passenger km data is for UK financial years (April to March) while the company's financial accounting data is for calendar years.

Table 389 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	78.20	82.01	91.90	98.93
Net profit (€m)	(4.35)	(3.95)	0.70	2.00
Operating profit (€m)	(5.18)	(4.89)	(0.19)	0.81
Total assets (€m)	21.08	19.81	22.60	27.61
Profitability				
Operating profit margin (%)	-6.6%	-6.0%	-0.2%	0.8%
Net margin (%)	-5.6%	-4.8%	0.8%	2.0%
Return on assets (%)	-20.6%	-20.0%	3.1%	7.2%
Return on equity (%)	-48.8%	-68.6%	10.9%	24.0%
Viability ratio	0.94	0.94	1.00	1.01
Efficiency				
Liabilities / operating costs	0.15	0.16	0.18	0.20
Cost per staff member (€'m)	0.24	0.26	0.32	0.34
Staff costs as proportion of operating costs (%)	17.2%	16.4%	15.4%	14.4%
Total Revenue per Passenger Km (€)	0.34	0.39	0.42	0.45
Indebtedness				
Total debt of the company (€m)	11.83	13.12	15.37	19.24
Debt: Equity ratio	1.33	2.28	2.38	2.31
Quick ratio	0.94	0.85	0.98	1.18
Current ratio	1.65	1.44	1.43	1.41
Debt service coverage ratio	(1,174.33)	(670.20)	(26.20)	139.00
Public funding				
Total public income (€m)	0.00	0.00	0.00	0.00
Public funding / costs (%)	0.0%	0.0%	0.0%	0.0%
Public funding / revenue (%)	0.0%	0.0%	0.0%	0.0%

Note that passenger km data is for UK financial years (April to March) while the company's financial accounting data is for calendar years. Hence the revenue per passenger km metric may be slightly inaccurate due to the misalignment.

28.16 GREAT NORTH EASTERN RAILWAY LTD / NXEC TRAINS LTD

28.16.1 NXEC Trains Ltd operates high-speed (125mph) intercity services on the East Coast Main Line between London King's Cross and Scotland. The company commenced operations in December 2007. Prior to this date, the franchise was operated by Great North Eastern Railway Ltd (GNER).

28.16.2 NXEC Trains Ltd is a subsidiary of National Express Group plc. Its predecessor GNER was a subsidiary of Sea Containers Ltd. In October 2006 Sea Containers Ltd filed for Chapter Eleven bankruptcy protection in the United States, preventing GNER from submitting a bid as part of the franchise re-let process.

28.16.3 Quality of financial statements

Note that the information set out in the tableTable 390 below relates to the previous operator, Great North Eastern Railway Ltd, and not to the current operator NXEC Trains Ltd. NXEC Trains commenced operations in December 2007 and financial statements for its first full year of operation are not yet available.

Table 390 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year 31 December 2007 and of its profit for the year then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[467]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) and rolling stock companies are set out in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company is taking advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[467] Similar findings for the company's financial statements in preceding years

28.16.4 Public funding

Table 391 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	-98.3	DfT	Not specified+	-	-	-100.9	DfT	Not specified+	-	-	-19.6	DfT	Not specified+	-	-	-125.0	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

Note that all grant information is for Great North Eastern Railway Ltd, except for the 2007-08 figure, which sums together the grants made available to Great North Eastern Railway Ltd and NXEC Trains Ltd (which took over franchise operations in December 2007)

28.16.5 Performance

Table 392 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	698.84	697.43	781.47	808.34
Passenger revenue	622.56	623.44	703.94	728.83
Total subsidisation	-	-	-	-
Wages, Salaries, Social Security Payments	120.23	124.49	129.18	125.06
Operating costs	669.62	686.90	747.15	791.70
Operating profit	29.23	10.57	34.32	16.64
Financial expenses	1.10	1.41	1.21	3.06
P&L on ordinary activities before tax	32.67	12.58	7.35	27.09
Total fixed assets	20.30	20.83	23.98	-
Long Term receivables	-	-	-	-
Total current assets	152.04	80.66	106.86	32.82
Trade debtors	34.22	28.26	36.66	-
Other debtors	5.75	4.69	6.26	18.10
Current asset investments	-	-	-	-
Cash at bank and in hand	38.78	26.12	39.71	14.01
Creditors: <1yr (Current Liabilities)	131.81	93.06	122.83	11.00
Creditors: >1yr	0.22	0.47	-	-
Provisions for liabilities and charges	0.86	-	-	-
Equity	39.44	7.96	8.00	21.82
	No. / Million km			
Average no. employees	3,053	3,065	2,879	2,627
Passenger Kilometres (millions)	3,939	4,064	4,132	4,310

Note that the information in this table relates to Great North Eastern Railway Ltd, and not to NXEC Trains Ltd (which took over the franchise in December 2007).

Note that the 2007 data corresponds to an 11-month period of operation between January and early December, when NXEC Trains Ltd took over the franchise.

Because GNER lost the franchise in December 2007, no fixed assets are present on the company's balance sheet for that year.

Table 393 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	698.84	697.43	781.47	880.73
Net profit (€m)	32.67	12.58	7.35	29.51
Operating profit (€m)	29.23	10.57	34.32	18.13
Total assets (€m)	172.34	101.49	130.83	-
Profitability				
Operating profit margin (%)	4.2%	1.5%	4.4%	2.1%
Net margin (%)	4.7%	1.8%	0.9%	3.4%
Return on assets (%)	19.0%	12.4%	5.6%	-
Return on equity (%)	82.8%	158.2%	91.9%	-
Viability ratio	1.04	1.02	1.05	1.02
Efficiency				
Liabilities / operating costs	0.20	0.14	0.16	-
Cost per staff member (€'m)	0.22	0.22	0.26	0.33
Staff costs as proportion of operating costs (%)	18.0%	18.1%	17.3%	15.8%
Total Revenue per Passenger Km (€)	0.16	0.15	0.17	0.18
Indebtedness				
Total debt of the company (€m)	132.04	93.53	122.83	-
Debt: Equity ratio	3.35	11.76	15.35	-
Quick ratio	0.60	0.63	0.67	-
Current ratio	1.15	0.87	0.87	-
Debt service coverage ratio	26.69	7.51	28.40	5.44
Public funding				
Total public income (€m)	0.00	0.00	0.00	0.00
Public funding / costs (%)	0.0%	0.0%	0.0%	0.0%
Public funding / revenue (%)	0.0%	0.0%	0.0%	0.0%

Note that the information in this table relates to Great North Eastern Railway Ltd, and not to NXEC Trains Ltd (which took over the franchise in December 2007).

GNER ceased trading in early December 2007. The financial statements for 2005 therefore relate to an 11-month period. The financial indicators for 2007 shown above were calculated by scaling up the reported figures to represent a full year. This makes them comparable with the financial indicators for the previous years.

Because GNER lost the franchise in December 2007, no fixed assets are present on the company's balance sheet for that year. Asset-related metrics are therefore not reported for 2007.

28.17 HEATHROW EXPRESS OPERATING COMPANY LTD

28.17.1 Heathrow Express Operating Company Ltd operates passenger rail services between London Paddington and London Heathrow Airport. Services include:

(i) The Heathrow Express, a non-stopping service between Paddington and Heathrow; and

(ii) Heathrow Connect, which stops at intermediate stations in West London.

It should be noted that the company operates Heathrow Connect as a joint venture with First Greater Western Ltd.

28.17.2 The company is an "open access" operator (that is, it serves a market for train services not currently served by a franchise). As such, it does not receive franchise grant support from the British government.

28.17.3 The company is an immediate subsidiary of BAA Ltd, which owns and operates Heathrow Airport. All fare and commercial revenue is collected by Heathrow Express Operating Company Ltd and transferred directly to Heathrow Airport Ltd.

In turn, Heathrow Express Operating Company Ltd receives all its revenue from Heathrow Airport Ltd: this revenue represents the costs incurred providing the service on behalf of Heathrow Airport Ltd plus a 10% management fee, net of value added tax.

28.17.4 The company's ultimate parent entity in the UK is FGP Topco Ltd and the ultimate parent entity is Grupo Ferrovial, S A (Spain).

28.17.5 Quality of financial statements

Table 394 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of PricewaterhouseCoopers LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 31 December 2007 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[468]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Partial	Track access payments to Network Rail are not separately disclosed in the notes to the financial statements. Instead, they form one component of the "general expenses" figures reported.
Visibility of intragroup transfers	Partial	The company states that it is taking advantage of the exemption under FRS8 not to disclose transactions with the parent company FGP Topco Ltd. However, "Other intra-group charges" are reported in Section 2 of the notes to the financial accounts. In addition to this, the notes state that the company receives all its revenue from Heathrow Airport Ltd.

[468] Similar findings for the company's financial statements in preceding years

28.17.6 Public funding

The company operates as an open access operator and, as such, receives no franchise grant support.

28.17.7 Performance

Table 395 Summary financial data

Summary financial data	2004**	2005**	2006**	2007**
Metric	**Million Euros**			
Total revenue	61.48	69.35	53.35	75.33
Passenger revenue	61.48	69.35	53.35	75.33
Total subsidisation	-	-	-	-
Wages, Salaries, Social Security Payments	14.11	17.02	13.84	19.66
Operating costs	55.89	62.83	48.47	68.48
Operating profit	5.59	6.51	4.87	6.85
Financial expenses	-	-	-	-
P&L on ordinary activities before tax	7.72	9.30	7.03	10.52
Total fixed assets	0.64	0.36	0.09	0.13
Long Term receivables	0.11	0.12	0.16	0.12
Total current assets	44.03	52.62	56.24	64.19
Trade debtors	2.41	3.37	2.52	3.09
Other debtors	2.70	4.49	1.92	1.89
Current asset investments	-	-	-	-
Cash at bank and in hand	0.67	0.71	1.00	0.33
Creditors: <1yr (Current Liabilities)	12.51	14.34	12.86	13.79
Creditors: >1yr	-	-	-	-
Provisions for liabilities and charges	-	-	-	-
Equity	32.15	38.65	43.47	50.52
	No. / Million km			
Average no. employees	299	316	332	341
Passenger Kilometres (millions)	*	*	*	*

* Data unavailable

** Note that in 2006, Heathrow Express Operating Company Ltd changes its financial year end from 31 March to 31 December. The metrics reported therefore relate to the following periods:
- 2004 metrics: April 2004-March 2005
- 2005 metrics: April 2005-March 2006
- 2006 metrics: April 2006-December 2006
- 2007 metrics: January 2007-December 2007

The 2006 metrics therefore relate to a 9 month period and are not directly comparable with the metric for other years.

Table 396 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	61.48	69.35	71.06	75.33
Net profit (€m)	7.72	9.30	9.36	10.52
Operating profit (€m)	5.59	6.51	6.49	6.85
Total assets (€m)	44.77	53.11	56.49	64.43
Profitability				
Operating profit margin (%)	9.1%	9.4%	9.1%	9.1%
Net margin (%)	12.6%	13.4%	13.2%	14.0%
Return on assets (%)	17.2%	17.5%	16.6%	16.3%
Return on equity (%)	24.0%	24.1%	21.5%	20.8%
Viability ratio	1.10	1.10	1.10	1.10
Efficiency				
Liabilities / operating costs	0.22	0.23	0.20	0.20
Cost per staff member (€'m)	0.19	0.20	0.19	0.20
Staff costs as proportion of operating costs (%)	25.2%	27.1%	28.5%	28.7%
Total Revenue per Passenger Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	12.51	14.34	12.86	13.79
Debt: Equity ratio	0.39	0.37	0.30	0.27
Quick ratio	0.46	0.60	0.42	0.38
Current ratio	3.52	3.67	4.37	4.65
Debt service coverage ratio	**	**	**	**
Public funding				
Total public income (€m)	0.00	0.00	0.00	0.00
Public funding / costs (%)	0.0%	0.0%	0.0%	0.0%
Public funding / revenue (%)	0.0%	0.0%	0.0%	0.0%

* Insufficient information to calculate ratio
** Ratio cannot be calculated: the denominator (interest payable) is zero for all years

Note that in 2006, Heathrow Express Operating Company Ltd changes its financial year end from 31 March to 31 December. The metrics reported therefore relate to the following periods:

- 2004 metrics: April 2004-March 2005
- 2005 metrics: April 2005-March 2006
- 2006 metrics: April 2006-December 2006
- 2007 metrics: January 2007-December 2007

The 2006 metrics are therefore based on data for a 9 month period. The financial indicators for 2006 shown above were calculated by scaling up the reported figures to represent a full year. This makes them comparable with the financial indicators for the other years.

28.18 LONDON AND BIRMINGHAM RAILWAY LTD

28.18.1 London and Birmingham Railway Ltd operates passenger railway services along the West Coast Main Line between London Euston and Liverpool, via Birmingham. It also operates commuter services in and around Birmingham. The company operates under the trading name ‘London Midland’.

28.18.2 London Midland commenced operations in November 2007, following a re-mapping of rail franchises in Great Britain. The services now provided by London Midland were previously provided by a combination of Silverlink Train Services Ltd (services between London Euston and Northampton) and Central Trains Ltd (services in Central England).

28.18.3 London and Birmingham Railway Ltd is a subsidiary of the Go-Ahead Group plc. Prior to the formulation of the new franchise, Silverlink Train Services Ltd and Central Trains Ltd were both subsidiaries of National Express Group plc.

28.18.4 Quality of financial statements

Note that the information set out in the table below relates to the operator of the new franchise, London and Birmingham Railway Ltd, and not to predecessors Silverlink and Central Trains.

Table 397 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Ernst & Young LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 28 June 2008 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Partial	Transfer figures are reported collectively in the notes to the financial statements under "Materials and external charges".
Visibility of intragroup transfers	Partial	Transactions with Go-Ahead Group plc & Subsidiary Companies are set out in Note 17 to the financial statements. The company states that no other related-party transactions that require disclosure under FRS8 were undertaken.

28.18.5 Public funding

Table 398 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-
Equity	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-
Grants*	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	63.4	DfT	Not specified+	-	-
Debt Write-offs	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-
Other	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

28.18.6 Performance

Table 399 Summary financial data

Summary financial data	2005	2006	2007	2008
Metric	**Million Euros**			
Total revenue				313.97
Passenger revenue				*
Total subsidisation				*
Wages, Salaries, Social Security Payments				70.43
Operating costs				307.13
Operating profit				6.85
Financial expenses				0.03
P&L on ordinary activities before tax				9.11
Total fixed assets				22.17
Long Term receivables				-
Total current assets				63.56
Trade debtors				29.49
Other debtors				8.20
Current asset investments				-
Cash at bank and in hand				17.55
Creditors: <1yr (Current Liabilities)				65.36
Creditors: >1yr				-
Provisions for liabilities and charges				1.44
Equity				18.94
	No. / Million km			
Average no. employees				2,501
Passenger Kilometres (millions)				592

Note that (with the exception of passenger km) this data relates to the 8 months between November 2007 (when franchise operations began) and June 2008.

Table 400 Financial Ratios

Financial indicators	2005	2006	2007	2008
Metric				
Performance				
Revenues (€m)				498.26
Net profit (€m)				14.46
Operating profit (€m)				10.87
Total assets (€m)				85.73
Profitability				
Operating profit margin (%)				2.2%
Net margin (%)				2.9%
Return on assets (%)				16.9%
Return on equity (%)				76.3%
Viability ratio				1.02
Efficiency				
Liabilities / operating costs				0.14
Cost per staff member (€'m)				0.19
Staff costs as proportion of operating costs (%)				22.9%
Total Revenue per Passenger Km (€)				*
Indebtedness				
Total debt of the company (€m)				65.36
Debt: Equity ratio				3.45
Quick ratio				0.85
Current ratio				0.97
Debt service coverage ratio				261.35
Public funding				
Total public income (€m)				*
Public funding / costs (%)				*
Public funding / revenue (%)				*

* Insufficient information to calculate ratio

Note that this data is based on the 8 months between November 2007 (when franchise operations began) and June 2008. The financial indicators shown above were calculated by scaling up the reported figures to represent a full year.

28.19 LONDON AND SOUTH EASTERN RAILWAY LTD

28.19.1 London and South Eastern Railway Ltd operates passenger railway services in London and across Kent and parts of East Sussex. Operations include ‘turn-up and go’ metro services and longer distance mainline services from termini at London Charing Cross, London Blackfriars, London Bridge and London Victoria. The company operates under the trading name ‘Southeastern’.

28.19.2 London and South Eastern Railway Ltd commenced operations in April 2006. Prior to that, the franchise was operated by South Eastern Trains Ltd.

28.19.3 London and South Eastern Railway Ltd is a subsidiary of The Go-Ahead Group plc. Its predecessor, South Eastern Trains Limited, operated as a subsidiary of the Strategic Rail Authority, a non-departmental public body created by the Transport Act 2000 (and abolished in 2006). The South Eastern franchise was taken into public ownership in 2003, in response to concerns about the financial management of the business provided by the previous private operator, Connex.

28.19.4 Quality of financial statements

Note that the information set out in the table below relates to the current operator of the franchise, London and South Eastern Railway Ltd, and not to the predecessor, South Eastern Trains Ltd.

Table 401 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Ernst & Young LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 28 June 2008 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Partial	Transfers are reported jointly as "Other operating charges" in Note 3 to the financial statements.
Visibility of intragroup transfers	Partial	Transactions with Keolis (UK) Ltd and Go-Ahead Group plc & Subsidiary Companies are set out in Section 20 of the notes to the financial statements. The company states that no other transactions with related parties were undertaken such as are to be disclosed under FRS8.

28.19.5 Public funding

Table 402 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	103.3	DfT	Not specified+	-	-	88.7	DfT	Not specified+	-	-	213.8	DfT	Not specified+	-	-	116.8	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

28.19.6 Performance

Table 403 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue			1,016.47	799.52
Passenger revenue			*	*
Total subsidisation			*	*
Wages, Salaries, Social Security Payments			227.67	172.12
Operating costs			977.74	762.43
Operating profit			38.73	37.09
Financial expenses			1.14	0.65
P&L on ordinary activities before tax			39.08	48.04
Total fixed assets			68.11	58.89
Long Term receivables			-	-
Total current assets			157.05	190.48
Trade debtors			28.32	32.95
Other debtors			12.94	14.74
Current asset investments			-	-
Cash at bank and in hand			38.63	86.88
Creditors: <1yr (Current Liabilities)			163.62	182.78
Creditors: >1yr			10.40	11.80
Provisions for liabilities and charges			-	-
Equity			51.14	54.80
	No. / Million km			
Average no. employees			3,857	3,849
Passenger Kilometres (millions)			3,557	3,844

* Data unavailable

Data relates to London and South Eastern Railway Ltd, which commenced operations in April 2006.

Note that the data reported relates to the following periods:
- 2007 data: April 2006-June 2007
- 2008 data: July 2007-June 2008

The 2007 data is therefore for a 15-month period, and so not directly comparable with the data for 2008.

Table 404 Financial Ratios

Financial indicators	2004	2005	2007	2008
Metric				
Performance				
Revenues (€m)			819.01	799.52
Net profit (€m)			31.49	48.04
Operating profit (€m)			31.21	37.09
Total assets (€m)			225.17	249.38
Profitability				
Operating profit margin (%)			3.8%	4.6%
Net margin (%)			3.8%	6.0%
Return on assets (%)			14.0%	19.3%
Return on equity (%)			61.6%	87.7%
Viability ratio			1.04	1.05
Efficiency				
Liabilities / operating costs			0.22	0.26
Cost per staff member (€'m)			0.20	0.20
Staff costs as proportion of operating costs (%)			23.3%	22.6%
Total Revenue per Passenger Km (€)			*	*
Indebtedness				
Total debt of the company (€m)			174.02	194.58
Debt: Equity ratio			3.40	3.55
Quick ratio			0.49	0.74
Current ratio			0.96	1.04
Debt service coverage ratio			34.07	56.63
Public funding				
Total public income (€m)			*	*
Public funding / costs (%)			*	*
Public funding / revenue (%)			*	*

* Insufficient information to calculate ratio

Metrics relate to London and South Eastern Railway Ltd, which commenced operations in April 2006.

Note that financial indicators reported are based on financial statements corresponding to the following periods:

- 2007 indicators: April 2006-June 2007
- 2008 indicators: July 2007-June 2008

The 2007 financial indicators therefore correspond to a 15-month period. The 2007 financial indicators reported in the table above were calculated by scaling up the reported figures to represent a full year. This makes them comparable with the financial indicators for 2008.

28.20 LONDON EASTERN RAILWAY LTD

28.20.1 London Eastern Railway Ltd operates passenger railway services between London Liverpool Street and Cambridge, Stansted, Norwich, Southend and rural services in East Anglia. The company runs both intercity services and high frequency ‘turn up and go’ commuter services in and around North-East London. The company commenced operations in April 2004 and currently operates under the trading name ‘National Express East Anglia’.

28.20.2 London Eastern Railway Ltd is a subsidiary of National Express Group plc.

28.20.3 Quality of financial statements

Table 405 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Ernst & Young LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 31 December 2007 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[469]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) are set out in the notes to the financial statements.
Visibility of intragroup transfers	Partial	Some details are provided in the notes to the financial statements for 2004, 2005 and 2006. For 2007, however, the company claims exemption under FRS8 not to disclose transactions with group companies that are related parties.

[469] Similar findings for the company's financial statements in preceding years

28.20.4 Public funding

Table 406 Public Funding

Year†	2004-05				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate
Loans	0.0	-	-	-	-
Equity	0.0	-	-	-	-
Grants*	-66.0	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-
Other	0.0	-	-	-	-

Year†	2005-06				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate
Loans	0.0	-	-	-	-
Equity	0.0	-	-	-	-
Grants*	-81.5	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-
Other	0.0	-	-	-	-

Year†	2006-07				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-
Equity	0.0	-	-	-	-
Grants*	4.3	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-
Other	0.0	-	-	-	-

Year†	2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-
Equity	0.0	-	-	-	-
Grants*	-82.0	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-
Other	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

28.20.5 Performance

Table 407 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	446.91	600.15	667.86	719.29
Passenger revenue	422.04	568.24	625.60	684.73
Total subsidisation	*	*	*	*
Wages, Salaries, Social Security Payments	93.86	125.57	134.82	143.09
Operating costs	436.41	618.19	657.23	704.84
Operating profit	10.51	(18.04)	10.63	14.45
Financial expenses	6.19	0.04	0.03	0.01
P&L on ordinary activities before tax	8.91	(11.01)	17.66	25.46
Total fixed assets	19.42	32.27	37.83	32.39
Long Term receivables	-	-	-	-
Total current assets	184.40	163.22	190.83	235.22
Trade debtors	61.48	38.01	30.03	29.35
Other debtors	13.80	11.02	12.59	16.71
Current asset investments	-	-	-	-
Cash at bank and in hand	87.35	94.65	120.63	140.89
Creditors: <1yr (Current Liabilities)	167.07	166.77	186.18	208.04
Creditors: >1yr	-	1.04	1.68	1.36
Provisions for liabilities and charges	0.52	0.88	1.91	2.58
Equity	24.47	3.61	23.92	44.32
	No. / Million km			
Average no. employees	3,060	3,070	3,084	3,103
Passenger Kilometres (millions)	3,680	3,475	3,667	3,946

* Data unavailable

Note that London Eastern Railway Ltd commenced operations in April 2004. The 2004 data is therefore based on information relating to the nine-month period between April and December.

Passenger km data is for UK financial years (April to March) while financial accounting data is for calendar years. Hence the revenue per passenger km metric may be slightly inaccurate due to the misalignment.

Table 408 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	595.34	600.15	667.86	719.29
Net profit (€m)	11.87	(11.01)	17.66	25.46
Operating profit (€m)	13.99	(18.04)	10.63	14.45
Total assets (€m)	203.82	195.49	228.65	267.62
Profitability				
Operating profit margin (%)	2.4%	-3.0%	1.6%	2.0%
Net margin (%)	2.0%	-1.8%	2.6%	3.5%
Return on assets (%)	5.8%	-5.6%	7.7%	9.5%
Return on equity (%)	48.5%	-305.1%	73.8%	57.5%
Viability ratio	1.02	0.97	1.02	1.02
Efficiency				
Liabilities / operating costs	0.29	0.27	0.29	0.30
Cost per staff member (€'m)	0.19	0.20	0.21	0.23
Staff costs as proportion of operating costs (%)	21.5%	20.3%	20.5%	20.3%
Total Revenue per Passenger Km (€)	0.15	0.16	0.17	0.17
Indebtedness				
Total debt of the company (€m)	167.07	167.81	187.85	209.39
Debt: Equity ratio	6.83	46.51	7.85	4.72
Quick ratio	0.97	0.86	0.88	0.90
Current ratio	1.10	0.98	1.02	1.13
Debt service coverage ratio	1.70	(441.21)	344.38	1,413.86
Public funding				
Total public income (€m)	*	*	*	*
Public funding / costs (%)	*	*	*	*
Public funding / revenue (%)	*	*	*	*

* Insufficient information to calculate ratio

Note that London Eastern Railway Ltd commenced operations in April 2004. The indicators for 2004 are therefore based on information relating to the nine-month period between April and December. The financial indicators for 2004 shown above were calculated by scaling up the reported figures to represent a full year. This makes them comparable with the financial indicators for the following three years.

Passenger km data is for UK financial years (April to March) while financial accounting data is for calendar years. Hence the revenue per passenger km metric may be slightly inaccurate due to the misalignment.

28.21 MERSEYRAIL ELECTRICS 2002 LTD

28.21.1 Merseyrail Electrics 2002 Ltd operates passenger railway services in and around Merseyside. The network is primarily urban in nature, but some services extend beyond Merseyside to Chester and Ormskirk. Merseyrail operates both high-frequency ‘turn-up-and-go’ metro services in and around Liverpool and lower-frequency services to more distant destinations.

28.21.2 In contrast with most other British passenger railway franchises, Merseyrail is not franchised by the Department for Transport. Instead, Merseyrail Electrics provides services under a concession agreement with the local Passenger Transport Executive (PTE) in Merseyside. This means that the role of the Department for Transport has been delegated to the Merseyside PTE, resulting in greater local control of the service.

28.21.3 Merseyrail Electrics 2002 Ltd is an immediate subsidiary of Merseyrail Services Holding Company Ltd. The ultimate and controlling parties are NV Nederlandse Spoorwegen and Serco Group plc.

28.21.4 Quality of financial statements

Table 409 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 5 January 2008 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[470]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) are set out in the notes to the financial statements.
Visibility of intragroup transfers	Good	Details of transactions between Merseyrail Electrics 2002 Ltd and its parent companies are set out in the notes to the financial statements.

[470] Similar findings for the company's financial statements in preceding years

28.21.5 Public funding

Table 410 Public Funding

Year[†]	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	78	Merseyside PTE	Not specified[+]	-	-	88	Merseyside PTE	Not specified[+]	-	-	117	Merseyside PTE	Not specified[+]	-	-	111	DfT	Not specified[+]	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Source: National Rail Trends Yearbook 2007-08, published by the ORR.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* These are grants made by the Department for Transport to local Passenger Transport Executive (PTE) in Merseyside and are earmarked for passenger railway services.

+ Payments are not formally earmarked for specific uses beyond the provision of passenger railway services. However, their general function is to pay for any loss-making service requirements built into the terms of the franchise.

28.21.6 Performance

Table 411 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	138.31	137.04	161.47	169.49
Passenger revenue	*	*	*	*
Total subsidisation	*	*	*	*
Wages, Salaries, Social Security Payments	41.92	43.57	47.00	48.31
Operating costs	129.77	128.99	152.05	157.54
Operating profit	8.53	8.05	9.42	11.95
Financial expenses	0.00	0.09	0.18	0.29
P&L on ordinary activities before tax	(2.78)	8.85	10.10	13.44
Total fixed assets	9.24	12.20	16.42	17.33
Long Term receivables	-	-	-	-
Total current assets	12.53	21.64	25.10	26.12
Trade debtors	1.35	3.45	4.14	2.27
Other debtors	-	1.19	0.70	3.41
Current asset investments	-	-	-	1.46
Cash at bank and in hand	4.63	8.60	11.19	10.94
Creditors: <1yr (Current Liabilities)	15.85	20.04	25.91	28.52
Creditors: >1yr	-	3.00	6.00	5.39
Provisions for liabilities and charges	8.11	8.50	3.28	4.39
Equity	(2.18)	2.29	6.32	5.15
	No. / Million km			
Average no. employees	1,096	1,128	1,159	1,134
Passenger Kilometres (millions)	291.6	296.3	334.4	341.8

* Data unavailable

Table 412 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	138.31	137.04	161.47	169.49
Net profit (€m)	(2.78)	8.85	10.10	13.44
Operating profit (€m)	8.53	8.05	9.42	11.95
Total assets (€m)	21.77	33.83	41.52	43.45
Profitability				
Operating profit margin (%)	6.2%	5.9%	5.8%	7.1%
Net margin (%)	-2.0%	6.5%	6.3%	7.9%
Return on assets (%)	-12.8%	26.2%	24.3%	30.9%
Return on equity (%)	127.2%	386.8%	159.7%	260.9%
Viability ratio	1.07	1.06	1.06	1.08
Efficiency				
Liabilities / operating costs	0.18	0.24	0.23	0.24
Cost per staff member (€'m)	0.12	0.11	0.13	0.14
Staff costs as proportion of operating costs (%)	32.3%	33.8%	30.9%	30.7%
Total Revenue per Passenger Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	15.85	23.04	31.92	33.91
Debt: Equity ratio	(7.26)	10.07	5.05	6.58
Quick ratio	0.38	0.66	0.62	0.63
Current ratio	0.79	1.08	0.97	0.92
Debt service coverage ratio	2,903.00	93.46	53.40	40.52
Public funding				
Total public income (€m)	*	*	*	*
Public funding / costs (%)	*	*	*	*
Public funding / revenue (%)	*	*	*	*

* Insufficient information to calculate ratio

28.22 MIDLAND MAIN LINE LTD / EAST MIDLANDS TRAINS LTD

28.22.1 East Midlands Trains Ltd operates intercity passenger railway services between London St Pancras and Sheffield and between London St Pancras and Nottingham. The company also operates a number of passenger railway services on regional routes in and around the East Midlands. The company commenced operations in November 2007, following a re-mapping of passenger rail franchises in Great Britain. Before this, services on what is now the East Midlands franchise were primarily operated by Midland Main Line Ltd (though some services were also provided by Central Trains Ltd).

28.22.2 East Midlands Trains Ltd is a subsidiary of Stagecoach Group plc. Midland Main Line Ltd was a subsidiary of National Express Group plc.

28.22.3 Quality of financial statements

Note that the information set out in the table below relates to the previous operator, Midland Main Line Ltd, and not to the current operator of the new franchise, East Midland Trains Ltd. East Midland Trains commenced operations in November 2007 and financial statements for its first full year of operation are not yet available.

Table 413 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Ernst & Young LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 31 December 2007 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[471]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) and rolling stock companies are set out in the notes to the financial statements.
Visibility of intragroup transfers	Partial	The company takes advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties. However, the notes do report 'Intra Group' sources of turnover, as well as purchases made and sales with the trainline.com, a subsidiary of Trainline Holdings Ltd, which was 14% owned by a follow subsidiary of the company (the holding was sold in July 2006).

[471] Similar findings for the company's financial statements in preceding years

28.22.4 Public funding

Table 414 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	-13.2	DfT	Not specified+	-	-	-9.2	DfT	Not specified+	-	-	43.7	DfT	Not specified+	-	-	47.9	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

Note that all grant information is for Midland Main Line Ltd, except for the 2007-08 figure, which sums together the grants made available to Midland Main Line and East Midland Trains (East Midland Trains took over franchise operations in November 2007).

28.22.5 Performance

Table 415 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	304.44	268.73	274.81	269.87
Passenger revenue	211.24	214.71	240.53	232.35
Total subsidisation	*	*	*	*
Wages, Salaries, Social Security Payments	46.96	47.29	48.04	48.15
Operating costs	306.32	261.10	291.53	242.56
Operating profit	(1.88)	7.64	(5.70)	30.99
Financial expenses	0.01	0.03	0.01	0.00
P&L on ordinary activities before tax	2.42	12.26	(1.13)	37.19
Total fixed assets	18.60	17.11	3.94	-
Long Term receivables	0.97	0.60	-	-
Total current assets	94.29	93.82	112.85	104.90
Trade debtors	14.19	11.46	15.69	9.99
Other debtors	1.74	4.77	7.85	2.23
Current asset investments	-	-	-	-
Cash at bank and in hand	27.97	12.80	23.70	0.33
Creditors: <1yr (Current Liabilities)	66.59	56.25	60.48	23.26
Creditors: >1yr	0.12	0.08	0.00	-
Provisions for liabilities and charges	-	0.62	-	-
Equity	45.94	52.55	55.92	81.64
	No. / Million km			
Average no. employees	1,130	1,111	1,089	992
Passenger Kilometres (millions)	1,322	1,272	1,380	1,598

* Data unavailable

Passenger km data is for UK financial years (April to March) while financial accounting data is for calendar years.

Note that all information is for Midland Main Line Ltd and not the current franchise operator Stagecoach East Midlands Trains, which started trading in November 2007.

Note also that because Midland Main Line Ltd ceased trading in November 2007, the 2007 data relates to an 11-month trading period.

Because Midland Main Line Ltd lost the franchise in November 2007, no fixed assets are present on the company's balance sheet for that year.

Table 416 Financial Ratios for Midland Main Line Ltd

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	304.44	268.73	274.81	313.71
Net profit (€m)	2.42	12.26	(1.13)	43.23
Operating profit (€m)	(1.88)	7.64	(5.70)	36.03
Total assets (€m)	113.86	111.53	116.79	#N/A
Profitability				
Operating profit margin (%)	-0.6%	2.8%	-2.1%	11.5%
Net margin (%)	0.8%	4.6%	-0.4%	13.8%
Return on assets (%)	2.1%	11.0%	-1.0%	#N/A
Return on equity (%)	5.3%	23.3%	-2.0%	#N/A
Viability ratio	0.99	1.03	0.94	1.11
Efficiency				
Liabilities / operating costs	0.22	0.22	0.21	#N/A
Cost per staff member (€'m)	0.27	0.24	0.27	0.28
Staff costs as proportion of operating costs (%)	15.3%	18.1%	16.5%	19.9%
Total Revenue per Passenger Km (€)	0.16	0.17	0.17	0.17
Indebtedness				
Total debt of the company (€m)	66.71	56.33	60.48	#N/A
Debt: Equity ratio	1.45	1.07	1.08	#N/A
Quick ratio	0.66	0.52	0.78	#N/A
Current ratio	1.42	1.67	1.87	#N/A
Debt service coverage ratio	(127.70)	275.26	(484.63)	21,228.00
Public funding				
Total public income (€m)	*	*	*	*
Public funding / costs (%)	*	*	*	*
Public funding / revenue (%)	*	*	*	*

* Insufficient information to calculate ratio

Passenger km data is for UK financial years (April to March) while financial accounting data is for calendar years. Hence the revenue per passenger km metric may be slightly inaccurate due to the misalignment.

Note that all information is for Midland Main Line Ltd and not the current franchise operator Stagecoach East Midlands Trains, which started trading in November 2007.

Note also that because Midland Main Line Ltd ceased trading in November 2007, its financial statements for that year that relate to an 11-month trading period. The financial indicators for 2007 shown above were calculated by scaling up the reported figures to represent a full year. This makes them comparable with the financial indicators for the previous three years.

Because Midland Main Line Ltd lost the franchise in November 2007, no fixed assets are present on the company's balance sheet for that year. Asset-related financial indicators are therefore not reported for 2007.

28.23 NEW SOUTHERN RAILWAY LTD

28.23.1 New Southern Railway Ltd operates passenger railway services south of the capital from London Victoria and London Bridge. Its main markets comprise South London, Surrey and East and West Sussex, though it also serves parts of Hampshire and Kent. Services offered include high frequency 'turn up and go' commuter routes and longer-distance routes. The company operates under the trading name 'Southern'.

28.23.2 In June 2008, the Gatwick Express franchise, operating between London Victoria and London Gatwick Airport, was integrated into the Southern franchise. However, this development was too recent to be reflected in the figures of any financial statements yet published by Southern. Details relating to Gatwick Express are therefore reported separately in this chapter.

28.23.3 New Southern Railway Ltd is a subsidiary of The Go-Ahead Group plc.

28.23.4 Quality of financial statements

Table 417 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Ernst & Young LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 28 June 2008 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[472]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Partial	These charges are reported collectively as 'External charges' and 'Other operating charges'.
Visibility of intragroup transfers	Partial	Transactions with Go-Ahead Group plc & Subsidiary Companies are set out in the notes to the financial statements. The company states that no other transactions with related parties were undertaken such as are to be disclosed under FRS8.

[472] Similar findings for the company's financial statements in preceding years

28.23.5 Public funding

Table 418 Public Funding

Year[†]	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	104.3	DfT	Not specified[+]	-	-	155.4	DfT	Not specified[+]	-	-	239.0	DfT	Not specified[+]	-	-	93.4	DfT	Not specified[+]	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

[†] Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

[+] Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

Note that this grant information does not include grants related to Gatwick Express, which was amalgamated into the Southern franchise in June 2008.

28.23.6 Performance

Table 419 Summary financial data for New Southern Railway Ltd

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	618.29	677.79	787.55	764.68
Passenger revenue	*	*	*	*
Total subsidisation	*	*	*	*
Wages, Salaries, Social Security Payments	156.33	163.78	171.35	170.46
Operating costs	585.34	644.22	734.09	714.76
Operating profit	32.94	33.57	53.46	49.92
Financial expenses	1.28	1.64	2.09	1.20
P&L on ordinary activities before tax	39.74	42.19	63.15	61.48
Total fixed assets	33.50	28.26	15.96	9.63
Long Term receivables	-	-	-	-
Total current assets	183.43	201.68	239.50	211.05
Trade debtors	24.78	22.14	27.79	16.79
Other debtors	13.73	23.58	12.14	47.00
Current asset investments	-	-	-	-
Cash at bank and in hand	82.44	93.48	132.05	83.69
Creditors: <1yr (Current Liabilities)	173.08	197.93	243.87	211.32
Creditors: >1yr	-	4.98	3.31	2.75
Provisions for liabilities and charges	10.45	14.34	4.37	1.23
Equity	33.40	12.69	3.90	5.37
	No. / Million km			
Average no. employees	3,551	3,585	3,584	3,710
Passenger Kilometres (millions)	2,914	2,826	3,161	3,422

* Data unavailable

Note that New Southern Railway Ltd's financial accounts run from July to June: 2007 data, for example, relates to the year beginning July 2007.

Passenger km data is for UK financial years (April to March).

Table 420 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	618.29	677.79	787.55	764.68
Net profit (€m)	39.74	42.19	63.15	61.48
Operating profit (€m)	32.94	33.57	53.46	49.92
Total assets (€m)	216.93	229.94	255.46	220.68
Profitability				
Operating profit margin (%)	5.3%	5.0%	6.8%	6.5%
Net margin (%)	6.4%	6.2%	8.0%	8.0%
Return on assets (%)	18.3%	18.3%	24.7%	27.9%
Return on equity (%)	119.0%	332.3%	1618.7%	1145.1%
Viability ratio	1.06	1.05	1.07	1.07
Efficiency				
Liabilities / operating costs	0.31	0.34	0.34	0.30
Cost per staff member (€'m)	0.16	0.18	0.20	0.19
Staff costs as proportion of operating costs (%)	26.7%	25.4%	23.3%	23.8%
Total Revenue per Passenger Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	173.08	202.91	247.18	214.07
Debt: Equity ratio	5.18	15.98	63.36	39.87
Quick ratio	0.70	0.70	0.71	0.70
Current ratio	1.06	1.02	0.98	1.00
Debt service coverage ratio	25.64	20.46	25.62	41.64
Public funding				
Total public income (€m)	*	*	*	*
Public funding / costs (%)	*	*	*	*
Public funding / revenue (%)	*	*	*	*

* Insufficient information to calculate ratio

Note that New Southern Railway Ltd's financial accounts run from July to June: 2007 metrics, for example, relate to the year beginning July 2007.

28.24 NORTHERN RAIL LTD

28.24.1 Northern Rail Ltd provides passenger railway services across much of the North of England, serving three regions with a combined population of 14.2 million: the North West, the North East and Yorkshire & Humberside. Operations range from simple, single-track lines to "multi-tracked, high-speed and densely used" parts of the network.

28.24.2 Northern Rail Ltd is a subsidiary of Northern Rail Holdings Ltd. The company started trading in December 2004. The ultimate controlling parties are NV Nederlandse Spoorwegen and Serco Group plc: these companies each own 50% of the share capital of Northern Rail Holdings Ltd under a joint venture agreement.

28.24.3 Quality of financial statements

Table 421 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 5 January 2008 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[473]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) and rolling stock companies are set out in the notes to the financial statements.
Visibility of intragroup transfers	Partial	The company takes advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties. However, details of transactions with parties outside of the group defined by FRS8 are disclosed.

[473] Similar findings for the company's financial statements in preceding years

28.24.4 Public funding

Table 422 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	118.8	DfT	Not specified+	-	-	407.9	DfT	Not specified+	-	-	248.6	DfT	Not specified+	-	-	169.3	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

Table 423 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue		682.70	764.57	776.34
Passenger revenue		188.52	203.08	212.64
Total subsidisation		433.78	496.49	509.41
Wages, Salaries, Social Security Payments		192.29	197.07	205.10
Operating costs		643.00	740.80	753.53
Operating profit		39.71	23.78	22.81
Financial expenses		0.95	0.24	0.46
P&L on ordinary activities before tax		43.71	30.19	31.12
Total fixed assets		30.46	36.24	35.29
Long Term receivables		-	-	-
Total current assets		105.99	120.45	109.80
Trade debtors		21.40	19.27	19.77
Other debtors		15.63	19.67	12.32
Current asset investments		-	-	-
Cash at bank and in hand		44.49	59.63	53.07
Creditors: <1yr (Current Liabilities)		109.09	117.55	117.42
Creditors: >1yr		0.43	12.20	12.18
Provisions for liabilities and charges		11.25	4.54	(1.38)
Equity		15.67	22.41	16.86
	No. / Million km			
Average no. employees		4,576	4,585	4,555
Passenger Kilometres (millions)		1,732	1,766	1,832

Note that passenger km data is for UK financial years (April to March) while the company's financial accounting data is for calendar years.

2004 metrics are excluded because Northern Rail Ltd only started trading in December 2004.

Table 424 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)		682.70	764.57	776.34
Net profit (€m)		43.71	30.19	31.12
Operating profit (€m)		39.71	23.78	22.81
Total assets (€m)		136.44	156.69	145.09
Profitability				
Operating profit margin (%)		5.8%	3.1%	2.9%
Net margin (%)		6.4%	3.9%	4.0%
Return on assets (%)		32.0%	19.3%	21.4%
Return on equity (%)		278.9%	134.7%	184.5%
Viability ratio		1.06	1.03	1.03
Efficiency				
Liabilities / operating costs		0.19	0.18	0.17
Cost per staff member (€'m)		0.14	0.16	0.17
Staff costs as proportion of operating costs (%)		29.9%	26.6%	27.2%
Total Revenue per Passenger Km (€)		0.11	0.12	0.12
Indebtedness				
Total debt of the company (€m)		109.52	129.75	129.61
Debt: Equity ratio		6.99	5.79	7.69
Quick ratio		0.75	0.84	0.73
Current ratio		0.97	1.02	0.94
Debt service coverage ratio		41.84	100.46	49.43
Public funding				
Total public income (€m)		433.78	496.49	509.41
Public funding / costs (%)		67.5%	67.0%	67.6%
Public funding / revenue (%)		63.5%	64.9%	65.6%

Note that passenger km data is for UK financial years (April to March) while the company's financial accounting data is for calendar years. Hence the revenue per passenger km metric may be slightly inaccurate due to the misalignment.

2004 metrics are excluded because Northern Rail Ltd only started trading in December 2004.

28.25 STAGECOACH SOUTH WESTERN TRAINS LTD

28.25.1 Stagecoach South Western Trains Ltd provides passenger railway services between London Waterloo and South-West London, Surrey, and twelve other counties in Southern England. The company also operates passenger railway services on the Isle of Wight. The company operates both high-frequency 'turn up and go' commuter services and fast intercity services.

28.25.2 The franchise commenced operations in February 2007, following a decision to combine the South Western franchise, previously operated by South West Trains Ltd, and the Isle of Wight franchise, previously operated by the Island Line Ltd.

28.25.3 Stagecoach South Western Trains Ltd, along with its predecessors South West Trains Ltd and Island Line Ltd are all subsidiaries of Stagecoach Group plc.

28.25.4 While accounts for Stagecoach South Western Trains Ltd have been published, these only relate to the first three months of the company's operation. The information provided below therefore relates to South Western's immediate predecessor, South West Trains Ltd. Although South West Trains was not responsible for services on the Isle of Wight, it should be noted that these services only make up a tiny fraction of the turnover of the new combined franchise.

28.25.5 Quality of financial statements

Note that, for the reasons explained above, the information set out in the table below relates to the previous operator, South West Trains Ltd, and not to the current operator of the new franchise operator, Stagecoach South Western Trains Ltd.

Table 425 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of PricewaterhouseCoopers LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 28 April 2007 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[474]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) and rolling stock companies are set out in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company takes advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[474] Similar findings for the company's financial statements in preceding years

28.25.6 Public funding

Table 426 Public Funding

Year†	2004-05				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate
Loans	0.0	-	-	-	-
Equity	0.0	-	-	-	-
Grants*	56.6	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-
Other	0.0	-	-	-	-

Year†	2005-06				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate
Loans	0.0	-	-	-	-
Equity	0.0	-	-	-	-
Grants*	74.3	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-
Other	0.0	-	-	-	-

Year†	2006-07				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-
Equity	0.0	-	-	-	-
Grants*	181.5	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-
Other	0.0	-	-	-	-

Year†	2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-
Equity	0.0	-	-	-	-
Grants*	15.4	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-
Other	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

Note that all grant information is for South West Trains Ltd, except for the 2007-08 figure, which sums together the grants made available to South West Trains Ltd and Stagecoach South Western Trains Ltd (the latter commenced operations in February 2007).

28.25.7 Performance

Table 427 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	914.27	1,120.47	1,248.07	1,145.72
Passenger revenue	*	*	*	*
Total subsidisation	121.03	202.22	245.65	265.43
Wages, Salaries, Social Security Payments	226.82	236.38	236.02	190.09
Operating costs	851.43	1,054.80	1,158.62	1,074.80
Operating profit	62.84	65.67	89.45	70.93
Financial expenses	-	14.31	16.49	14.42
P&L on ordinary activities before tax	67.24	78.19	103.12	86.25
Total fixed assets	15.92	30.18	20.73	-
Long Term receivables	6.95	0.11	0.09	-
Total current assets	259.36	251.69	313.51	31.79
Trade debtors	68.31	73.30	74.56	-
Other debtors	3.49	9.54	9.94	-
Current asset investments	-	-	-	-
Cash at bank and in hand	105.17	86.96	127.32	0.29
Creditors: <1yr (Current Liabilities)	268.05	271.31	294.32	1.20
Creditors: >1yr	-	-	-	-
Provisions for liabilities and charges	9.55	11.42	10.36	-
Equity	4.62	(0.76)	29.65	30.59
	No. / Million km			
Average no. employees	5,133	5,315	5,300	5,101
Passenger Kilometres (millions)	4,290	4,606	4,577	4,898

* Data unavailable

Note that the information in this table relates to South West Trains Ltd, and not to Stagecoach South Western Trains Ltd (which took over the franchise in February 2007).

Note that South West Trains Ltd's financial statements covered years from May to April – so, for example, the 2006 metrics refer to the period between May 2005 and April 2006.

Note that South West Trains' financial statements for 2007 relate to a 9-month period of operation between May 2006 and February 2007, when the company ceased trading.

Because the franchise was transferred to Stagecoach South Western Trains Ltd in February 2007, no fixed assets are present on the South West Trains Ltd balance sheet for that year.

Table 428 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	914.27	1,120.47	1,248.07	1,488.22
Net profit (€m)	67.24	78.19	103.12	112.03
Operating profit (€m)	62.84	65.67	89.45	92.13
Total assets (€m)	282.23	281.97	334.33	-
Profitability				
Operating profit margin (%)	6.9%	5.9%	7.2%	6.2%
Net margin (%)	7.4%	7.0%	8.3%	7.5%
Return on assets (%)	23.8%	27.7%	30.8%	-
Return on equity (%)	1454.1%	-10240.2%	347.8%	-
Viability ratio	1.07	1.06	1.08	1.07
Efficiency				
Liabilities / operating costs	0.33	0.27	0.26	-
Cost per staff member (€'m)	0.17	0.20	0.22	0.27
Staff costs as proportion of operating costs (%)	26.6%	22.4%	20.4%	17.7%
Total Revenue per Passenger Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	268.05	271.31	294.32	-
Debt: Equity ratio	57.97	(355.32)	9.93	-
Quick ratio	0.66	0.63	0.72	-
Current ratio	0.97	0.93	1.07	-
Debt service coverage ratio	-	4.59	5.43	4.92
Public funding				
Total public income (€m)	121.03	202.22	245.65	344.78
Public funding / costs (%)	14.2%	19.2%	21.2%	24.7%
Public funding / revenue (%)	13.2%	18.0%	19.7%	23.2%

* Insufficient information to calculate ratio

Note that the information in this table relates to South West Trains Ltd, and not to Stagecoach South Western Trains Ltd (which took over the franchise in February 2007).

Note that South West Trains Ltd's financial statements covered years from May to April – so, for example, the 2006 metrics refer to the period between May 2005 and April 2006.

Note that South West Trains' financial statements for 2007 relate to a 9-month period of operation between May 2006 and February 2007, when the company ceased trading. The financial indicators for 2007 shown above were calculated by scaling up the reported figures to represent a full year. This makes them comparable with the financial indicators for the previous years.

Because the franchise was transferred to Stagecoach South Western Trains Ltd in February 2007, no fixed assets are present on the South West Trains Ltd balance sheet for that year. Asset-related metrics are therefore not reported for 2007.

28.26 THE CHILTERN RAILWAY COMPANY LTD

28.26.1 The Chiltern Railway Company Ltd provides passenger railway services between London Marylebone and Aylesbury, and between London Marylebone and towns along the M40 corridor to Birmingham.

28.26.2 The Chiltern Railway Company Ltd has been a subsidiary of Deutsche Bahn AG since March 2008. Before this date, the company's parent was Henderson Infrastructure HOLDCO (Jersey) Ltd.

28.26.3 Quality of financial statements

Table 429 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 5 January 2008 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[475]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) and rolling stock companies are set out in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company takes advantage of the exemption under FRS8 not to disclose information on related-party transactions within the Henderson Infrastructure Holdco Ltd Group.

[475] Similar findings for the company's financial statements in preceding years

28.26.4 Public funding

Table 430 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	20.5	DfT	Not specified+	-	-	17.7	DfT	Not specified+	-	-	47.2	DfT	Not specified+	-	-	17.6	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

† Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

+ Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

Table 431 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	143.78	136.12	161.71	180.13
Passenger revenue	101.42	100.37	117.79	132.70
Total subsidisation	26.32	20.33	29.48	33.46
Wages, Salaries, Social Security Payments	36.15	38.19	38.95	41.02
Operating costs	131.08	131.41	167.95	191.36
Operating profit	12.69	10.57	(6.23)	15.24
Financial expenses	0.28	2.13	2.97	2.17
P&L on ordinary activities before tax	13.13	9.02	(8.36)	14.82
Total fixed assets	37.22	49.52	57.38	62.03
Long Term receivables	0.06	2.05	0.24	0.21
Total current assets	32.10	35.28	42.49	42.03
Trade debtors	3.32	2.64	2.04	1.14
Other debtors	4.00	3.71	3.35	1.43
Current asset investments	-	-	-	-
Cash at bank and in hand	14.00	9.45	9.87	9.64
Creditors: <1yr (Current Liabilities)	40.05	56.69	78.15	85.95
Creditors: >1yr	14.59	15.01	15.28	1.56
Provisions for liabilities and charges	9.44	13.00	13.79	12.45
Equity	5.24	0.09	(7.34)	4.11
	No. / Million km			
Average no. employees	698	751	712	725
Passenger Kilometres (millions)	715	718	817	897

Note that passenger km data is for UK financial years (April to March) while the company's financial accounting data is for calendar years.

Table 432 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	143.78	136.12	161.71	180.13
Net profit (€m)	13.13	9.02	(8.36)	14.82
Operating profit (€m)	12.69	10.57	(6.23)	15.24
Total assets (€m)	69.38	86.85	100.11	104.27
Profitability				
Operating profit margin (%)	8.8%	7.8%	-3.9%	8.5%
Net margin (%)	9.1%	6.6%	-5.2%	8.2%
Return on assets (%)	18.9%	10.4%	-8.3%	14.2%
Return on equity (%)	250.5%	10301.7%	113.9%	360.6%
Viability ratio	1.10	1.04	0.96	0.94
Efficiency				
Liabilities / operating costs	0.49	0.64	0.64	0.52
Cost per staff member (€'m)	0.19	0.17	0.24	0.26
Staff costs as proportion of operating costs (%)	27.6%	29.1%	23.2%	21.4%
Total Revenue per Passenger Km (€)	0.14	0.14	0.14	0.15
Indebtedness				
Total debt of the company (€m)	54.64	71.71	93.43	87.51
Debt: Equity ratio	10.43	818.57	(12.73)	21.29
Quick ratio	0.53	0.28	0.20	0.14
Current ratio	0.80	0.62	0.54	0.49
Debt service coverage ratio	44.75	4.97	(2.10)	7.01
Public funding				
Total public income (€m)	26.32	20.33	29.48	33.46
Public funding / costs (%)	20.1%	15.5%	17.6%	17.5%
Public funding / revenue (%)	18.3%	14.9%	18.2%	18.6%

Note that passenger km data is for UK financial years (April to March) while the company's financial accounting data is for calendar years. Hence the revenue per passenger km metric may be slightly inaccurate due to the misalignment.

28.27 WEST COAST TRAINS LTD

28.27.1 West Coast Trains Ltd operates high-speed (125mph) intercity passenger rail services on the West Coast Main Line between London Euston and Birmingham, Wolverhampton, Holyhead, Manchester, Preston, Carlisle and Glasgow. The company operates under the trading name 'Virgin Trains'.

28.27.2 West Coast Trains Limited is a subsidiary of Virgin Group Holdings Ltd.

28.27.3 Quality of financial statements

Table 433 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of KPMG LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 1 March 2008 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[476]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of charges payable to Network Rail (the infrastructure manager) and rolling stock companies are set out in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company is taking advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[476] Similar findings for the company's financial statements in preceding years

28.27.4 Public funding

Table 434 Public Funding

Year[†]	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	131.7	DfT	Not specified[+]	-	-	135.6	DfT	Not specified[+]	-	-	326.5	DfT	Not specified[+]	-	-	229.3	DfT	Not specified[+]	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Sources: National Rail Trends Yearbooks published by the ORR and Strategic Rail Authority, 2004/05-2007/08; discussions with industry participants.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

[†] Years are UK financial years (April to March)

* Annual grant payments to train operating companies by the Department for Transport are made in accordance with the terms of the relevant franchise agreement. Note that these payments could be negative as well as positive (i.e. instead of receiving a subsidy, the train operating company could itself make a payment to the State).

[+] Grant payments are not formally earmarked for specific uses. However, their general function is to pay for any loss-making service requirements built into the franchise terms specified by the Department for Transport. Negative payments may therefore suggest that the train operating company can meet its franchise requirements and make a positive profit.

Table 435 Summary financial data

Summary financial data	2005	2006	2007	2008
Metric	**Million Euros**			
Total revenue	894.01	820.61	949.63	1,118.48
Passenger revenue	501.60	622.63	743.36	825.96
Total subsidisation	194.84	100.20	123.90	169.82
Wages, Salaries, Social Security Payments	135.33	132.18	138.74	144.73
Operating costs	854.04	843.87	933.61	1,015.18
Operating profit	39.96	(23.26)	16.02	103.30
Financial expenses	3.34	4.18	3.30	2.62
P&L on ordinary activities before tax	44.36	(19.52)	24.67	115.38
Total fixed assets	15.22	5.98	2.47	1.76
Long Term receivables	73.05	60.83	48.94	35.16
Total current assets	300.62	314.10	412.61	311.96
Trade debtors	112.46	136.96	179.44	34.43
Other debtors	17.22	46.07	18.43	28.55
Current asset investments	-	-	-	-
Cash at bank and in hand	144.44	101.95	186.42	215.04
Creditors: <1yr (Current Liabilities)	251.65	284.89	363.91	265.53
Creditors: >1yr	31.12	30.87	31.08	29.82
Provisions for liabilities and charges	20.58	22.52	18.25	18.90
Equity	85.53	42.62	50.77	34.62
	No. / Million km			
Average no. employees	2,813	2,757	2,705	2,806
Passenger Kilometres (millions)	2,721	3,361	3,747	4,214

All data is for years ending in March: in other words, ‘2008’ refers to the year ending in March 2008 and so on.

Table 436 Financial Ratios for West Coast Trains Ltd

Financial indicators	2005	2006	2007	2008
Metric				
Performance				
Revenues (€m)	894.01	820.61	949.63	1,118.48
Net profit (€m)	44.36	(19.52)	24.67	115.38
Operating profit (€m)	39.96	(23.26)	16.02	103.30
Total assets (€m)	388.88	380.91	464.02	348.88
Profitability				
Operating profit margin (%)	4.5%	-2.8%	1.7%	9.2%
Net margin (%)	5.0%	-2.4%	2.6%	10.3%
Return on assets (%)	11.4%	-5.1%	5.3%	33.1%
Return on equity (%)	51.9%	-45.8%	48.6%	333.3%
Viability ratio	1.05	0.97	1.02	1.10
Efficiency				
Liabilities / operating costs	0.36	0.40	0.44	0.31
Cost per staff member (€'m)	0.30	0.31	0.35	0.36
Staff costs as proportion of operating costs (%)	15.8%	15.7%	14.9%	14.3%
Total Revenue per Passenger Km (€)	0.18	0.19	0.20	0.20
Indebtedness				
Total debt of the company (€m)	282.77	315.76	394.99	295.35
Debt: Equity ratio	3.31	7.41	7.78	8.53
Quick ratio	1.09	1.00	1.06	1.05
Current ratio	1.19	1.10	1.13	1.17
Debt service coverage ratio	11.97	(5.57)	4.85	39.45
Public funding				
Total public income (€m)	194.84	100.20	123.90	169.82
Public funding / costs (%)	22.8%	11.9%	13.3%	16.7%
Public funding / revenue (%)	21.8%	12.2%	13.0%	15.2%

All data is for years ending in March: in other words, '2008' refers to the year ending in March 2008 and so on.

Freight operators

28.27.5 We have been able to find information on the allocation of public funding to individual freight companies. Therefore, below we set out the aggregate data provided by the DfT on the total amount of public money invested in the rail freight sector.

28.27.6 The DfT runs two schemes designed to facilitate the environmental and social benefits that result from using rail instead of road:

- **Freight Facilities Grant:** "helps offset the capital cost of providing rail freight handling facilities"
- **Rail Environmental Benefit Procurement (REPS):** "assists companies with the operating costs associated with running rail freight transport instead of road (where rail is more expensive than road)".

Table 437 Public funding for the rail freight sector

	2003-04	2004-05	2005-06	2006-07	2007-08
REPs (€m)	24	35	34	44	24
Freight facilities grants (€m)	22	3	0	0	1

Source: DfT

Note: 2007-08 figures include England and Scotland, but not Wales (DfT is still collecting the Welsh data for this year)

28.28 DIRECT RAIL SERVICES LTD

28.28.1 Direct Rail Services Ltd is a train operating company specialising in the haulage of freight by rail in the UK. According to recent financial statements, the company specialises in the provision of transport to the nuclear industry, particularly the rail element of the transfer of spent nuclear fuel from power stations, the return of reprocessed fuel to its country of origin and the transport of waste to licensed sites. The company also provides intermodal transport generally between domestic rail hubs in partnership with logistics providers who service the retail sectors within the UK. In addition to this, the company provides support for the UK rail network by undertaking track conditioning and logistics to support engineering work and condition monitoring.

28.28.2 Direct Rail Services Ltd's ultimate controlling party is considered to be the Government of the United Kingdom.

28.28.3 Quality of financial statements

Table 438 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Ernst & Young LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 31 March 2008 and of its loss for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[477]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Partial	Details of "other external and operating charges" are reported collectively in the notes to the financial statements.
Visibility of intragroup transfers	Partial	The company takes advantage of the exemption under FRS8 not to disclose transactions within its ultimate controlling parent undertaking (the UK Government). However it does provide details of disclosures required by FRS8 regarding other related parties.

[477] Similar findings for the company's financial statements in preceding years

Table 439 Summary financial data

Summary financial data	2005	2006	2007	2008
Metric	**Million Euros**			
Total revenue	36.59	40.98	51.73	57.60
Freight revenue	*	*	*	*
Total subsidisation	1.73	1.75	1.78	1.21
Wages, Salaries, Social Security Payments	11.17	12.68	15.62	17.81
Operating costs	33.77	38.96	49.06	57.59
Operating profit	2.82	2.02	2.67	0.01
Financial expenses	0.00	0.00	1.09	0.98
P&L on ordinary activities before tax	3.06	2.03	1.70	(0.89)
Total fixed assets	10.96	24.91	27.45	29.26
Long Term receivables	-	-	-	-
Total current assets	10.96	13.55	17.61	14.18
Trade debtors	3.54	4.60	6.90	7.87
Other debtors	0.32	0.01	0.00	0.00
Current asset investments	-	-	-	-
Cash at bank and in hand	4.09	5.85	4.96	1.45
Creditors: <1yr (Current Liabilities)	4.07	5.48	7.11	7.32
Creditors: >1yr	8.86	8.86	10.00	12.05
Provisions for liabilities and charges	-	-	1.97	0.04
Equity	22.09	24.11	25.98	24.03
	No. / Million km			
Average no. employees	227	232	253	291
Freight Kilometres (millions)	*	*	*	*

* Data unavailable

All data is for years ending beginning in April and in March: in other words, ‘2008’ refers to the year ending in March 2008.

Table 440 Financial Ratios for Direct Rail Services Ltd

Financial indicators	2005	2006	2007	2008
Metric				
Performance				
Revenues (€m)	36.59	40.98	51.73	57.60
Net profit (€m)	3.06	2.03	1.70	(0.89)
Operating profit (€m)	2.82	2.02	2.67	0.01
Total assets (€m)	21.93	38.46	45.06	43.44
Profitability				
Operating profit margin (%)	7.7%	4.9%	5.2%	0.0%
Net margin (%)	8.4%	5.0%	3.3%	-1.6%
Return on assets (%)	14.0%	5.3%	3.8%	-2.1%
Return on equity (%)	13.9%	8.4%	6.6%	-3.7%
Viability ratio	1.08	1.05	1.05	1.00
Efficiency				
Liabilities / operating costs	0.38	0.37	0.39	0.34
Cost per staff member (€'m)	0.15	0.17	0.19	0.20
Staff costs as proportion of operating costs (%)	33.1%	32.5%	31.8%	30.9%
Total Revenue per Freight Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	12.93	14.35	17.11	19.37
Debt: Equity ratio	0.59	0.59	0.66	0.81
Quick ratio	1.95	1.91	1.67	1.27
Current ratio	2.69	2.47	2.48	1.94
Debt service coverage ratio	958.50	458.00	2.45	0.01
Public funding				
Total public income (€m)	1.73	1.75	1.78	1.21
Public funding / costs (%)	5.1%	4.5%	3.6%	2.1%
Public funding / revenue (%)	4.7%	4.3%	3.4%	2.1%

* Insufficient information to calculate ratio

All data is for years ending beginning in April and in March: in other words, ‘2008’ refers to the year ending in March 2008.

28.29 ENGLSH WELSH & SCOTTISH RAILWAY LTD

28.29.1 English Welsh & Scottish Railway Ltd (EWS) provides haulage of freight by rail and other related services within Great Britain. EWS is the largest rail freight operating company in the United Kingdom.

28.29.2 Until 2007, EWS was a subsidiary of Boreal & Austral Ltd. In November 2007, the EWS group of companies was acquired by Deutsche Bahn AG. In January 2009 it was announced that EWS would be rebranded as DB Schenker (U.K.).

28.29.3 Quality of financial statements

Table 441 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of KPMG LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the period ended 31 December 2007 and of its loss for the nine month period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[478]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Partial	Details of charges payable to other rail businesses are reported collectively as "operating lease rentals" and "other external charges" in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company is taking advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[478] Similar findings for the company's financial statements in preceding years

Table 442 Summary financial data for English Welsh & Scottish Railway Ltd

Summary financial data	2005	2006	2007	2008
Metric	**Million Euros**			
Total revenue	694.43	713.39	686.57	465.33
Freight revenue	*	*	*	*
Total subsidisation	*	*	*	*
Wages, Salaries, Social Security Payments	258.13	245.20	257.22	167.84
Operating costs	667.82	706.63	688.64	480.39
Operating profit	26.61	6.76	(2.07)	(15.05)
Financial expenses	14.11	11.91	9.32	9.94
P&L on ordinary activities before tax	33.37	15.73	25.16	(3.83)
Total fixed assets	158.03	469.52	498.76	541.45
Long Term receivables	-	-	-	-
Total current assets	158.03	141.56	170.35	223.51
Trade debtors	69.83	80.41	76.37	82.64
Other debtors	18.23	4.85	2.37	4.40
Current asset investments	-	-	-	-
Cash at bank and in hand	22.49	-	0.74	5.40
Creditors: <1yr (Current Liabilities)	320.02	208.01	209.72	229.61
Creditors: >1yr	-	57.33	98.86	215.70
Provisions for liabilities and charges	85.85	92.90	91.02	86.34
Equity	204.92	253.87	313.32	271.22
	No. / Million km			
Average no. employees	5,050	4,695	4,354	3,988
Freight Kilometres (millions)	*	*	*	*

* Data unavailable

With the exception of 2008, data is for years ending beginning in April and ending the following March: in other words, ‘2007’ refers to the year ending March 2007.

The financial statement data for 2008 relates to the 9-month period of operation between April and December (this change in financial reporting dates followed the acquisition of EWS by Deutsche Bahn).

Table 443 Financial Ratios for English Welsh & Scottish Railway Ltd

Financial indicators	2005	2006	2007	2008
Metric				
Performance				
Revenues (€m)	694.43	713.39	686.57	619.88
Net profit (€m)	33.37	15.73	25.16	(5.11)
Operating profit (€m)	26.61	6.76	(2.07)	(20.05)
Total assets (€m)	316.05	611.08	669.11	764.95
Profitability				
Operating profit margin (%)	3.8%	0.9%	-0.3%	-3.2%
Net margin (%)	4.8%	2.2%	3.7%	-0.8%
Return on assets (%)	10.6%	2.6%	3.8%	-0.7%
Return on equity (%)	16.3%	6.2%	8.0%	-1.9%
Viability ratio	1.04	1.01	1.00	0.97
Efficiency				
Liabilities / operating costs	0.61	0.51	0.58	0.83
Cost per staff member (€'m)	0.13	0.15	0.16	0.16
Staff costs as proportion of operating costs (%)	38.7%	34.7%	37.4%	34.9%
Total Revenue per Freight Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	320.02	265.34	308.58	445.31
Debt: Equity ratio	1.56	1.05	0.98	1.64
Quick ratio	0.35	0.41	0.38	0.40
Current ratio	0.49	0.68	0.81	0.97
Debt service coverage ratio	1.89	0.57	(0.22)	(1.51)
Public funding				
Total public income (€m)	*	*	*	*
Public funding / costs (%)	*	*	*	*
Public funding / revenue (%)	*	*	*	*

* Insufficient information to calculate ratio

With the exception of 2007, data is for years ending beginning in April and ending the following March: in other words, '2008' refers to the year ending March 2008.

The financial statements 2008 relate to the 9-month period of operation between April and December (this change in financial reporting dates followed the acquisition of EWS by Deutsche Bahn). The financial indicators for 2008 shown above were calculated by scaling up the reported figures to represent a full year. This makes them comparable with the financial indicators for the previous three years.

28.30 FREIGHTLINER HEAVY HAUL LTD

28.30.1 Freightliner Heavy Haul Ltd (FHH) operates bulk rail heavy haulage freight services in Great Britain. According to the company's financial statements, services provided by FHH include the transportation of coal, infrastructural and rail services aggregates, cement, scrap and petroleum products, together with associated train planning, scheduling, track maintenance and fleet management. By March 2007, the company was operating over 1,200 trains per week.

28.30.2 Freightliner Heavy Haul Ltd is a subsidiary of Freightliner Group Ltd.

28.30.3 Quality of financial statements

Table 444 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 31 March 2007 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[479]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of track access charges payable to Network Rail (the infrastructure manager) are set out in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company is taking advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[479] Similar findings for the company's financial statements in preceding years

Table 445 Summary financial data for Freightliner Heavy Haul Ltd

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	97.38	109.79	118.43	135.33
Freight revenue	97.11	109.22	117.55	134.19
Total subsidisation	*	*	*	*
Wages, Salaries, Social Security Payments	26.30	31.82	33.35	38.86
Operating costs	81.93	92.79	102.33	118.35
Operating profit	15.45	17.00	16.11	16.98
Financial expenses	0.21	0.57	0.50	0.29
P&L on ordinary activities before tax	15.52	16.62	15.91	17.03
Total fixed assets	29.55	9.83	10.12	30.19
Long Term receivables	-	-	-	-
Total current assets	29.55	28.33	39.97	27.91
Trade debtors	9.70	14.94	13.64	17.04
Other debtors	0.72	0.51	0.45	0.46
Current asset investments	-	-	-	-
Cash at bank and in hand	0.16	-	-	-
Creditors: <1yr (Current Liabilities)	20.98	24.09	24.21	23.32
Creditors: >1yr	4.39	4.13	3.77	22.94
Provisions for liabilities and charges	0.51	0.51	0.49	1.88
Equity	10.27	5.91	17.10	6.47
	No. / Million km			
Average no. employees	405	453	487	539
Freight Kilometres (millions)	*	*	*	*

* Data unavailable

Data is for years ending beginning in April and ending the following March: in other words, ‘2007’ refers to the year ending March 2007.

Table 446 Financial Ratios for Freightliner Heavy Haul Ltd

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	97.38	109.79	118.43	135.33
Net profit (€m)	15.52	16.62	15.91	17.03
Operating profit (€m)	15.45	17.00	16.11	16.98
Total assets (€m)	59.09	38.16	50.10	58.10
Profitability				
Operating profit margin (%)	15.9%	15.5%	13.6%	12.5%
Net margin (%)	15.9%	15.1%	13.4%	12.6%
Return on assets (%)	26.3%	43.5%	31.8%	29.3%
Return on equity (%)	151.2%	281.2%	93.1%	263.1%
Viability ratio	1.19	1.18	1.16	1.14
Efficiency				
Liabilities / operating costs	0.32	0.35	0.32	0.44
Cost per staff member (€'m)	0.20	0.20	0.21	0.22
Staff costs as proportion of operating costs (%)	32.1%	34.3%	32.6%	32.8%
Total Revenue per Freight Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	25.36	28.22	27.98	46.26
Debt: Equity ratio	2.47	4.78	1.64	7.15
Quick ratio	0.50	0.64	0.58	0.75
Current ratio	1.41	1.18	1.65	1.20
Debt service coverage ratio	72.02	29.81	32.42	58.24
Public funding				
Total public income (€m)	*	*	*	*
Public funding / costs (%)	*	*	*	*
Public funding / revenue (%)	*	*	*	*

* Insufficient information to calculate ratio

Data is for years ending beginning in April and ending the following March: in other words, ‘2007’ refers to the year ending March 2007.

28.31 FREIGHTLINER LTD

28.31.1 Freightliner Ltd is the UK’s largest haulier of maritime containers, accounting for 84% of the rail-fed business in 2006-07. The company provides trunk rail services between five deep-sea ports (Felixstowe, Liverpool, Southampton, Thamesport and Tilbury) and inland freight interchanges. The company also provides local road haulage and storage for containers at these inland interchanges.

28.31.2 Freightliner Ltd is a subsidiary of Freightliner Group Ltd.

28.31.3 Quality of financial statements

Table 447 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs for the year ended 31 March 2007 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[480]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of track access charges payable to Network Rail (the infrastructure manager) are set out in the notes to the financial statements.
Visibility of intragroup transfers	Poor	The company takes advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties

[480] Similar findings for the company's financial statements in preceding years

Table 448 Summary financial data for Freightliner Ltd

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	189.13	212.21	228.93	242.38
Freight revenue	164.12	182.70	201.07	211.84
Total subsidisation	20.10	24.41	23.82	24.79
Wages, Salaries, Social Security Payments	46.70	51.32	53.35	56.30
Operating costs	178.23	199.28	212.48	225.74
Operating profit	10.90	12.93	16.46	16.64
Financial expenses	4.05	4.44	4.53	4.38
P&L on ordinary activities before tax	7.02	8.81	12.33	13.09
Total fixed assets	54.63	118.11	129.53	129.07
Long Term receivables	-	-	-	-
Total current assets	54.63	66.50	78.72	99.25
Trade debtors	16.29	19.18	17.72	18.06
Other debtors	1.34	0.98	0.50	0.50
Current asset investments	-	-	-	-
Cash at bank and in hand	1.71	0.93	1.52	1.11
Creditors: <1yr (Current Liabilities)	43.60	43.94	43.43	49.00
Creditors: >1yr	75.81	74.69	75.53	73.34
Provisions for liabilities and charges	0.79	15.88	18.61	12.60
Equity	45.60	46.93	67.71	90.56
	No. / Million km			
Average no. employees	1,063	1,091	1,122	1,116
Freight Kilometres (millions)	*	*	*	*

* Data unavailable

Data is for years ending in March: in other words, ‘2007’ refers to the year ending March 2007.

Table 449 Financial Ratios for Freightliner Ltd

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	189.13	212.21	228.93	242.38
Net profit (€m)	7.02	8.81	12.33	13.09
Operating profit (€m)	10.90	12.93	16.46	16.64
Total assets (€m)	109.26	184.61	208.25	228.32
Profitability				
Operating profit margin (%)	5.8%	6.1%	7.2%	6.9%
Net margin (%)	3.7%	4.2%	5.4%	5.4%
Return on assets (%)	6.4%	4.8%	5.9%	5.7%
Return on equity (%)	15.4%	18.8%	18.2%	14.5%
Viability ratio	1.06	1.06	1.08	1.07
Efficiency				
Liabilities / operating costs	0.67	0.67	0.65	0.60
Cost per staff member (€'m)	0.17	0.18	0.19	0.20
Staff costs as proportion of operating costs (%)	26.2%	25.8%	25.1%	24.9%
Total Revenue per Freight Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	119.41	118.63	118.95	122.34
Debt: Equity ratio	2.62	2.53	1.76	1.35
Quick ratio	0.44	0.48	0.45	0.40
Current ratio	1.25	1.51	1.81	2.03
Debt service coverage ratio	2.69	2.91	3.63	3.79
Public funding				
Total public income (€m)	20.10	24.41	23.82	24.79
Public funding / costs (%)	11.3%	12.2%	11.2%	11.0%
Public funding / revenue (%)	10.6%	11.5%	10.4%	10.2%

* Insufficient information to calculate ratio

Data is for years ending in March: in other words, ‘2007’ refers to the year ending March 2007.

28.32 GB RAILFREIGHT LTD

28.32.1 GB Railfreight Ltd (‘GBRf’) is a provider of rail freight services in Great Britain. Launched in 1999, its portfolio has expanded to include: intermodal services; bulk traffic; infrastructure materials; rail industry services; construction materials; petrochemicals and metals; and general commodities such as post mail.

28.32.2 GB Railfreight Ltd is a subsidiary of FirstGroup plc.

28.32.3 Quality of financial statements

Table 450 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with the United Kingdom Generally Accepted Accounting Practice, of the state of the company's affairs as of 31 March 2007 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[481]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the United Kingdom Generally Accepted Accounting Practice and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Partial	Details are collectively reported as "Other external charges" in the notes to the financial statements.
Visibility of intragroup transfers	Partial	The company takes advantage of the exemption under FRS8 not to disclose transactions with group companies that are related parties. However, the company does set out details of transfers with parties that do not fall under the FRS8 exemption.

[481] Similar findings for the company's financial statements in preceding years

Table 451 Summary financial data

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	21.99	32.73	40.95	52.23
Freight revenue	21.99	32.73	40.95	52.23
Total subsidisation	*	*	*	*
Wages, Salaries, Social Security Payments	6.43	9.97	13.03	16.74
Operating costs	19.97	30.78	38.11	49.05
Operating profit	2.01	1.95	2.84	3.17
Financial expenses	-	-	-	-
P&L on ordinary activities before tax	2.04	1.97	2.90	3.26
Total fixed assets	5.99	1.48	1.95	5.22
Long Term receivables	-	-	-	-
Total current assets	5.99	8.52	14.31	19.21
Trade debtors	3.19	6.05	6.21	8.58
Other debtors	0.01	0.06	0.87	1.59
Current asset investments	-	-	-	-
Cash at bank and in hand	0.32	0.00	0.04	0.36
Creditors: <1yr (Current Liabilities)	3.89	6.04	10.32	16.22
Creditors: >1yr	-	-	-	-
Provisions for liabilities and charges	-	-	-	-
Equity	2.52	3.96	5.93	8.22
	No. / Million km			
Average no. employees	105	146	205	247
Freight kilometres (millions)	*	*	*	*

* Data unavailable

Data is for years ending in March: in other words, ‘2007’ refers to the year ending March 2007.

Table 452 Financial Ratios

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	21.99	32.73	40.95	52.23
Net profit (€m)	2.04	1.97	2.90	3.26
Operating profit (€m)	2.01	1.95	2.84	3.17
Total assets (€m)	11.99	10.00	16.26	24.43
Profitability				
Operating profit margin (%)	9.2%	6.0%	6.9%	6.1%
Net margin (%)	9.3%	6.0%	7.1%	6.2%
Return on assets (%)	17.0%	19.7%	17.8%	13.3%
Return on equity (%)	81.1%	49.7%	48.8%	39.6%
Viability ratio	1.10	1.06	1.07	1.06
Efficiency				
Liabilities / operating costs	0.19	0.20	0.27	0.33
Cost per staff member (€'m)	0.19	0.21	0.19	0.20
Staff costs as proportion of operating costs (%)	32.2%	32.4%	34.2%	34.1%
Total Revenue per Freight Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	3.89	6.04	10.32	16.22
Debt: Equity ratio	1.55	1.53	1.74	1.97
Quick ratio	0.90	1.01	0.69	0.65
Current ratio	1.54	1.41	1.39	1.18
Debt service coverage ratio	N/A	N/A	N/A	N/A
Public funding				
Total public income (€m)	*	*	*	*
Public funding / costs (%)	*	*	*	*
Public funding / revenue (%)	*	*	*	*

* Insufficient information to calculate ratio

No interest receivable reported for any of the years under study; hence the debt service coverage ratio has returned an 'N/A'

Data is for years ending in March: in other words, '2007' refers to the year ending March 2007.

Infrastructure managers

28.33 NETWORK RAIL INFRASTRUCTURE LTD

28.33.1 Network Rail Infrastructure Ltd has responsibility for the management of the national rail infrastructure in Great Britain. According to its 2007-08 financial statements, the company's principle activities are the operation, maintenance, renewal and, in co-operation with train operators and funders, the development or enhancement of the national rail network and in particular:

(iii) provision to train operators of railway track access;
(iv) management of train timetabling, train planning and signalling;
(v) maintenance, renewal and enhancement of the infrastructure; and
(vi) undertaking major rail infrastructure capital programmes.

28.33.2 Network Rail Infrastructure Ltd is a subsidiary of Network Rail Ltd, a company limited by guarantee. Network Rail took over responsibility for Great Britain's railway infrastructure in 2002. The previous private infrastructure manager, Railtrack, had started operations following the privatisation of Britain's railways in 1993, but was forced into administration in October 2001. Network Rail receives substantial public support in the form of an annual network grant and a financial indemnity mechanism (see below for more details). Unlike its predecessor, Railtrack, Network Rail is a not-for-profit company: profits are ploughed back into the business rather than being split between shareholders as dividends.

28.33.3 Quality of financial statements

Table 453 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of Deloitte & Touche LLP the financial statements give a true and fair view, in accordance with IFRSs as adopted by the European Union, of the state of the company's affairs for the year ended 31 March 2008 and of its profit for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[482]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by IFRSs and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Good	Details of revenue received from passenger and freight train operating companies are disclosed in the notes to the financial statements.
Visibility of intragroup transfers	Poor	Transactions between the company and its subsidiaries, which are related parties, have been eliminated on consideration and are not disclosed in the note on related party transactions in the financial statements.

[482] Similar findings for the company's financial statements in preceding years

28.33.4 Public funding

Table 454 Public Funding

Year+	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans++	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Equity	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Grants*	3,019	DfT	Not specified+	-	-	2,909	DfT	Not specified+	-	-	5,014	DfT	Not specified+	-	-	4,993	DfT	Not specified+	-	-
Debt Write-offs	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-
Other	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-	0.0	-	-	-	-

Source: National Rail Trends Yearbook 2007-08, published by the ORR; discussions with ATOC and Network Rail.

Note that the funding data reported in this table may not agree directly with funding data reported in the company's accounts, due to timing differences and other accounting adjustments.

* Years are UK financial years (April to March)

+This annual 'Network Grant' is intended to allow Network Rail to cover its costs by supplementing the revenue the company receives from track access charges. Since 2003, the Network Grant has accounted for a substantial share of Network Rail's total income. This followed a decision taken in 2003 to reduce the company's dependence on track access charges and increase direct government support.

++Network Rail receives indirect debt-related support from the government in the form of a **Financial Indemnity Mechanism** (FIM). In 2004, a Debt Issuance Programme was established to provide Network Rail with new finance and to re-finance the existing short-term debt. Broadly, the debt consists of bank loans, bonds, commercial paper (short debt) and leasing arrangements. The investors include central banks, international institutions and pension funds. The debts are guaranteed by a financial indemnity dated 29 October 2004 given by the United Kingdom Government through the Department which is unlimited and irrevocable. Originally, the indemnity was given by the SRA but its rights and liabilities were transferred to the Department on 26 June 2005 pursuant to a transfer scheme under the Railways Act 2005 ("2005 Act") ("the transfer scheme"). The indemnity covers all debt issued under the Debt Issuance Programme.

Table 455 Summary financial data

Summary financial data	2005	2006	2007	2008
Metric	**Million Euros**			
Total revenue	5,586.00	5,640.39	8,576.60	8,463.20
Track & Infrastructure Charges (Passenger services)	2,109.45	2,227.05	3,264.88	3,267.42
Track & Infrastructure Charges (Freight services)	107.31	142.59	140.60	127.80
Track & Infrastructure Charges (Both passenger & freight)	-	-	-	-
Total subsidisation	3,025.26	2,915.01	4,775.96	4,661.86
Wages, Salaries, Social Security Payments	1,492.05	1,730.19	1,894.40	2,002.20
Operating costs	4,902.45	4,952.43	5,205.16	5,038.16
Operating profit	683.55	687.96	3,371.44	3,425.04
Financial expenses	984.90	1,178.94	1,397.12	1,439.88
P&L on ordinary activities before tax	(69.09)	(341.04)	2,187.44	2,267.74
Total fixed assets	965.79	40,470.57	44,003.36	46,780.48
Long Term receivables	-	-	-	-
Total current assets	965.79	833.49	1,290.56	2,345.84
Trade debtors	216.09	179.34	473.60	451.56
Other debtors	174.93	120.54	233.84	276.90
Current asset investments	-	-	-	78.10
Cash at bank and in hand	41.16	45.57	285.64	771.06
Creditors: <1yr (Current Liabilities)	10,691.31	9,243.36	7,684.16	10,715.32
Creditors: >1yr	19,750.92	25,614.75	29,209.28	28,240.96
Provisions for liabilities and charges	11.76	32.34	26.64	-
Equity	5,306.70	6,413.61	8,373.84	10,170.04
	No. / Million km			
Average no. employees	26,433	31,584	33,446	34,770
Track kilometres managed	16,116	15,810	15,795	15,814

Data is for years ending beginning in April and ending the following March: in other words, ‘2008’ refers to the year ending March 2008.

Table 456 Financial Ratios

Financial indicators	2005	2006	2007	2008
Metric				
Performance				
Revenues (€m)	5,586.00	5,640.39	8,576.60	8,463.20
Net profit (€m)	(69.09)	(341.04)	2,187.44	2,267.74
Operating profit (€m)	683.55	687.96	3,371.44	3,425.04
Total assets (€m)	1,931.58	41,304.06	45,293.92	49,126.32
Profitability				
Operating profit margin (%)	12.2%	12.2%	39.3%	40.5%
Net margin (%)	-1.2%	-6.0%	25.5%	26.8%
Return on assets (%)	-3.6%	-0.8%	4.8%	4.6%
Return on equity (%)	-1.3%	-5.3%	26.1%	22.3%
Viability ratio	1.14	1.14	1.65	1.68
Efficiency				
Liabilities / operating costs	6.21	7.05	7.09	7.73
Cost per staff member (€'m)	0.19	0.16	0.16	0.14
Staff costs as proportion of operating costs (%)	30.4%	34.9%	36.4%	39.7%
Total Revenue per Km managed (€ 000)	0.14	0.15	0.22	0.21
Indebtedness				
Total debt of the company (€m)	30,442.23	34,858.11	36,893.44	38,956.28
Debt: Equity ratio	5.74	5.44	4.41	3.83
Quick ratio	0.04	0.04	0.13	0.15
Current ratio	0.09	0.09	0.17	0.22
Debt service coverage ratio	0.69	0.58	2.41	2.38
Public funding				
Total public income (€m)	3,025.26	2,915.01	4,775.96	4,661.86
Public funding / costs (%)	61.7%	58.9%	91.8%	92.5%
Public funding / revenue (%)	54.2%	51.7%	55.7%	55.1%

Data is for years ending beginning in April and ending the following March: in other words, '2008' refers to the year ending March 2008.

28.34 THE CHANNEL TUNNEL GROUP LTD

28.34.1 The Channel Tunnel Group Ltd operates and maintains the fixed rail link under the Channel between England and France. The company is an integrated operator: it is responsible for managing the track and tunnel infrastructure of the fixed rail link as well as the operation of the 'Shuttle' train service that transports vehicles through the tunnel.

28.34.2 The Channel Tunnel Group Ltd is a subsidiary of TNU PLC. The company jointly operates the fixed rail link with the TNU Group SA companies under a partnership agreement. The company operates the Channel Tunnel under a Concession from the UK and French governments, the term of which is due to expire in 2086.

28.34.3 Quality of financial statements

Table 457 Quality of financial statements

	Quality	Comment
Audit Assurance	Good	In the opinion of KPMG Audit Plc the financial statements give a true and fair view, in accordance with IFRS and adopted by the EU, of the state of the company's affairs for the year ended 31 December 2007 and of its loss for the period then ended; and the financial statements have been properly prepared in accordance with the Companies Act 1985.[483]
Transparency	Good	The accounts are clearly set out and meet the standards of presentation required by the IFRS and the Companies Act 1985.
Visibility of transfers from/to other rail businesses	Partial	The notes to the financial statements report revenue from 'railways' (separately from revenue from Shuttle services and other services). However, it is not clear what proportion of this 'railways' revenue comes from other rail businesses.
Visibility of intragroup transfers	Good	Details of intragroup staff charges and financial charges are set out in the notes to the financial statements.

[483] Similar findings for the company's financial statements in preceding years

28.34.4 Public funding

Table 458 Public Funding

Year†	2004-05					2005-06					2006-07					2007-08				
Type	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rate	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates	Amount (€m)	Source	Use of funds	Repayment Profile	Interest Rates
Loans	?	-	-	-	-	?	-	-	-	-	?	-	-	-	-	?	-	-	-	-
Equity	?	-	-	-	-	?	-	-	-	-	?	-	-	-	-	?	-	-	-	-
Grants*	?	-	-	-	-	?	-	-	-	-	?	-	-	-	-	?	-	-	-	-
Debt Write-offs	?	-	-	-	-	?	-	-	-	-	?	-	-	-	-	?	-	-	-	-
Other	?	-	-	-	-	?	-	-	-	-	?	-	-	-	-	?	-	-	-	-

There is a lack of transparency in the company's financial statements regarding the nature and extent of public support made available to the company.

Table 459 Summary financial data for The Channel Tunnel Group Ltd

Summary financial data	2004	2005	2006	2007
Metric	**Million Euros**			
Total revenue	400.22	394.43	410.78	403.02
Passenger Revenue	*	*	*	*
Freight Revenue	*	*	*	*
Unspecified Passenger & Freight Revenue	213.28	215.60	216.13	244.14
Track & Infrastructure Charges (Passenger)	*	*	*	*
Track & Infrastructure Charges (Freight)	*	*	*	*
Track & Infrastructure Charges (Both)	174.75	171.68	174.54	136.50
Total subsidisation	*	*	*	*
Wages, Salaries, Social Security Payments	**	**	**	**
Operating costs	585.46	1,580.72	245.59	262.07
Operating profit	(185.24)	(1,186.29)	165.19	140.95
Financial expenses	257.81	260.06	277.55	188.95
P&L on ordinary activities before tax	(432.37)	(1,436.70)	(105.45)	(18.10)
Total fixed assets	4,955.05	3,555.97	3,515.00	3,431.54
Long Term receivables	-	-	-	-
Total current assets	77.40	54.08	225.24	224.23
Trade debtors	30.01	20.90	31.33	37.22
Other debtors	44.58	31.51	192.06	19.57
Current asset investments	-	-	-	-
Cash at bank and in hand	2.82	1.67	1.86	2.51
Creditors: <1yr (Current Liabilities)	7,903.74	8,003.43	8,261.19	1,459.43
Creditors: >1yr	139.01	45.31	10.72	2,238.69
Provisions for liabilities and charges	26.91	14.16	56.95	26.37
Equity	(3,037.20)	(4,452.85)	(4,588.62)	(68.72)
	No. / Million km			
Average no. employees	**	**	**	**
Track kilometres managed	*	*	*	*

* Data unavailable

** Note that the company employed no staff during the period under study. Instead, staff were seconded from other businesses.

Table 460 Financial Ratios for The Channel Tunnel Group Ltd

Financial indicators	2004	2005	2006	2007
Metric				
Performance				
Revenues (€m)	400.22	394.43	410.78	403.02
Net profit (€m)	(432.37)	(1,436.70)	(105.45)	(18.10)
Operating profit (€m)	(185.24)	(1,186.29)	165.19	140.95
Total assets (€m)	5,032.46	3,610.05	3,740.24	3,655.77
Profitability				
Operating profit margin (%)	-46.3%	(3.01)	0.40	0.35
Net margin (%)	-108.0%	(3.64)	(0.26)	(0.04)
Return on assets (%)	-8.6%	(0.40)	(0.03)	(0.00)
Return on equity (%)	14.2%	0.32	0.02	0.26
Viability ratio	0.68	0.25	1.67	1.54
Efficiency				
Liabilities / operating costs	13.78	5.10	33.91	14.21
Cost per staff member (€'m)	**	**	**	**
Staff costs as proportion of operating costs (%)	**	**	**	**
Total Revenue per Passenger Km (€)	*	*	*	*
Total Revenue per Freight Km (€)	*	*	*	*
Indebtedness				
Total debt of the company (€m)	8,042.75	8,048.74	8,271.91	3,698.12
Debt: Equity ratio	(2.65)	(1.81)	(1.80)	(53.81)
Quick ratio	0.01	0.01	0.03	0.04
Current ratio	0.01	0.01	0.03	0.15
Debt service coverage ratio	(0.72)	(4.56)	0.60	0.75
Public funding				
Total public income (€m)	*	*	*	*
Public funding / costs (%)	*	*	*	*
Public funding / revenue (%)	*	*	*	*

* Insufficient information to calculate ratio

Note that the company employed no staff during the period under study. Instead, staff were seconded from other businesses.

17.3 Conclusion

17.7.12 Based on the information available, we can conclude the following.

- Under the British system, there are multiple passenger train operating franchisees, a number of freight operators and a single national infrastructure manager (Network Rail).
- The ORR (Office of Rail Regulation) is responsible for the economic regulation of the rail sector, which is also overseen by the DfT (Department for Transport) who have responsibility for awarding the passenger franchises to train operating companies.
- Due to the franchising of passenger services, public funding takes the form of a single annual grant payment, the use of which is not specified by the DfT. Amounts also vary widely, depending on the franchise bid of the operator. Details of these payments are made publically available by the regulator.
- Articles 6.1, 6.2 and 9.4 of the Directive have been fully transposed into national legislation.
- The accounts produced are all compliant with UK GAAP or IFRS, however the level of disclosure of inter-company transactions is insufficient to be able to determine whether public funds have been transferred between the infrastructure manager and rail operators or PSO related funds have been transferred to other parts of the rail operators businesses.
- All train operating companies pay track and infrastructure access charges to Network Rail and it is not possible to tell whether these reflect the underlying costs and therefore are economically justifiable.
- All of the passenger train operating companies are profitable, to varying degrees (dependent on the profitability of the line(s) that they operate), although some are quite heavily indebted. The performance of the freight operators is equally varied, although on average they are slightly more profitable than the passenger train operating companies. Network Rail began the period making net losses, but has become significantly more profitable in the latter part of the period. It has consistently had high levels of debt and poor liquidity. The Channel Tunnel Group and Eurostar have performed much worse than the other companies.

29 ACCOUNTING SEPARATION IN THE RAIL SECTOR

29.1 Introduction

29.1.1 The preparation and publication of separated accounts for the infrastructure management, freight and passenger operations of rail businesses is a key component of the Commission's overall policy to promote and support competition in rail markets.

29.1.2 Detailed and reliable separated accounts can help ensure that potentially harmful anti-competitive conduct is identified and prevented. The Commission's directives on accounting separation for the rail sector are, in particular, seen as an important regulatory tool to identify potentially anti-competitive cross-subsidies and inappropriate use of public funds.

29.1.3 However, our review of the separated accounts of railway businesses across Europe has concluded that, in nearly all cases, the separated accounts prepared by rail businesses do not provide sufficient information to draw robust conclusions on either the existence of potentially harmful cross-subsidisation between different rail activities or the question of whether or not public funds have been appropriately used.

29.1.4 This section considers the reasons why accounting separation in railways does not currently provide the information required by regulators and competition authorities and what can be done to address this issue. It considers the role and format of separated accounts in other sectors, how railway separated accounts are different and how separated accounts in the rail sector could be improved.

29.1.5 The remainder of this section is set out as follows:

- Section 29.2 discusses current weaknesses in the accounting separation regime.
- Section 29.3 discusses the role and format of separated accounts in other sectors.

29.2 Current weaknesses in the accounting separation regime

29.2.1 Our review of accounting separation in rail businesses sought to address, inter alia, two key issues:

- Is there evidence of cross-subsidisation between infrastructure management, freight and passenger activities of railway businesses?
- Are firms complying with the regulatory restrictions on the use of public funding (in particular the funding of Public Service Obligation contracts)?

Economic Test for cross subsidy

29.2.2 The generally accepted test for cross subsidy requires that:[484] [485]

(a) Revenues from each service at least cover the incremental (or marginal) costs of the service, and

(b) Revenues from each service are no higher than the stand alone costs of each service.

[484] For a discussion see *Cross-subsidy analysis with more than two services* Gerald Faulhaber, Journal of Competition Law and Economics Vol 1 No3 2005

[485] For an example of tests for cross subsidies in an accounting separation context see *Assessing cross-subsidy in Australia Post: an ACCC report* http://www.accc.gov.au/content/index.phtml/itemId/772798

29.2.3 Incremental cost can be defined as the additional cost of providing a particular service, or group of services, over and above the costs of all other services. The stand alone cost of a service or group of services is the cost of providing the relevant quantity of services by themselves.

29.2.4 In considering the application of these economic cost definitions, it is useful to distinguish between cost bases and cost standards.

Cost Base

29.2.5 Cost base refers to the time period of the cost. Three relevant cost bases are generally referred to in regulatory and competition analysis: historic costs, current costs and forward-looking costs.

29.2.6 In simple terms, historic costs reflect the actual costs incurred in delivering a service. In particular, the depreciation charge and cost of capital in historic costs is based on the original purchase or construction cost of assets. Where assets were constructed many years ago (as is likely to be the case for the incumbent infrastructure operators for much of the track network) the historic cost of the asset is likely to be much lower than the cost of constructing a similar network today, primarily because of the impact of inflation on the key input costs of labour, construction and steel.

29.2.7 Current costs are a measure of the costs which would be incurred today in providing a particular service. The main differences between current and historic costs relate to the costs associated with the use of fixed asstes. To convert historic accounts to current cost accounts, adjustments are need to the value of the asset and the depreciation charge:

- On the balance sheet assets are revalued to the cost of buying or building the asset today (and then depreciated to reflect its remaining life).
- In the profit and loss account, a depreciation adjustment equivalent to the difference between the deprecation charge on the asset calculated on a historic cost and on a current cost basis, and a holding gain or loss reflecting the change in value of assets between the historic cost base and the current cost base.

29.2.8 An important consideration in setting prices is to ensure that they encourage efficient investment in new infrastructure by both the incumbent firm and new entrants. Generally, this implies that prices should be based on the costs of buying or constructing the assets used in the delivery of the service in question.

29.2.9 In principle, the relevant costs are those for investment decisions during the period that the prices will apply, and therefore the regulator tends to refer to 'forward-looking costs'.

29.2.10 However, forward looking costs inevitably involve an element of subjectivity - they are dependent on forecasts of key assumptions such as asset prices, input costs (eg price of copper), technological changes and demand volumes.

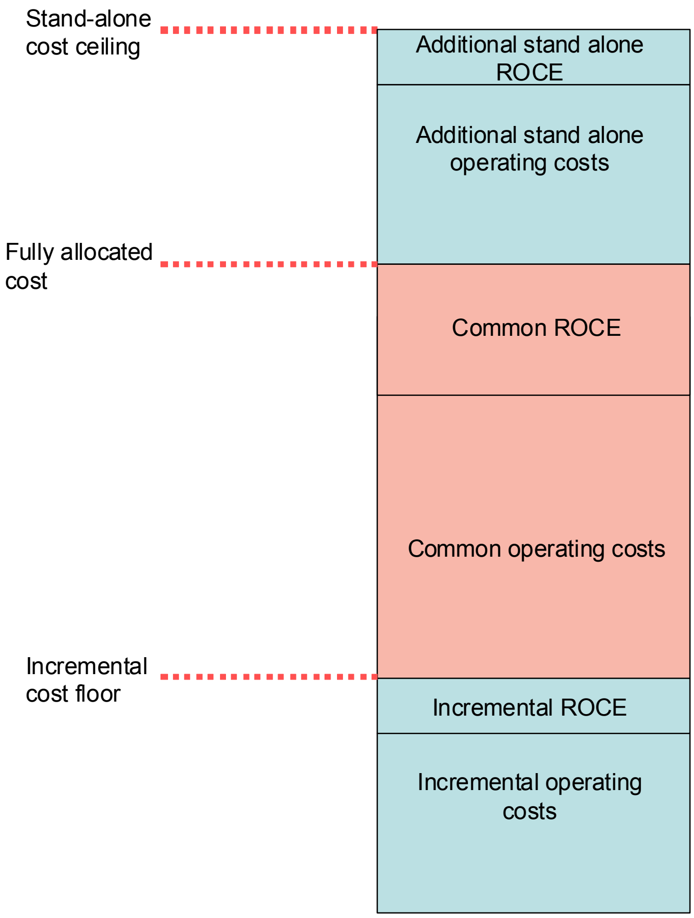
29.2.11 For practical purposes, and to reduce the reliance on forecasts, actual current costs are often used as a proxy for forward-looking costs. However, when considering the use of current costs in price setting, it may be appropriate to adjust the current costs for any individually significant costs where those future costs can reasonably be expected to differ from current costs.

Cost Standard

29.2.12 Cost standard refers to the type of costs that are included in a particular cost calculation. Cost standards that are considered in utility regulation include Fully Allocated Costs (FAC)[486], Stand Alone Costs (SAC), and Incremental Costs (IC). A fully allocated cost approach allocates all costs of the business down to individual services such that the sum of all FAC costs for all services equals the total costs of the business.

29.2.13 The relationship between different cost standards is illustrated in Figure 19 below.

Figure 19 Cost standards



Source: RGL

29.2.14 European legislation for railways refers to direct costs, which in this context are the same as incremental costs:

"infrastructure charging should be set at the cost that is directly incurred as a result of operating the train service.."[487]

[486] Sometimes referred to as Fully Distributed Costs ('FDC')

[487] DIRECTIVE 2001/14/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification

29.2.15 The legislation also provides that a mark-up on incremental costs (to allow for recovery of common costs) is permitted:

> "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 through charges including mark-ups or a rate of return which the market can bear while balancing cost recovery with intermodal competitiveness of rail freight. However, it is desirable for any infrastructure charging scheme to enable traffic to use the rail network which can at least pay for the additional cost which it imposes."

Using statutory accounts to test for cross-subsidies

29.2.16 In summary, the published separated accounts of railway undertakings and infrastructure managers we reviewed did not include sufficient information to test for cross subsidies.

29.2.17 In particular, the published separated accounts did not include any measure of the incremental or stand alone costs necessary to detect anti-competitive cross-subsidies.

Reporting of public funding in statutory accounts

29.2.18 Our review of public funding of railways found that, in general, insufficient information was provided in order to properly assess whether the legislation relating to public funding was complied with.

29.2.19 For example, a proper analysis of the treatment of public funds requires a detailed review of the business' cashflows – i.e. how did the cash received in public funding actually get spent?

29.2.20 Statutory accounts do not typically provide details on the use of individual sources of funds. The accounts may provide some breakdown of total funds received by the company and a reconciliation of how the business used those funds, but the accounts do not match funds to particular activities in the way that is needed to ensure compliance with the directives.

29.2.21 Further, the current accounting separation requirements only require separate profit and loss accounts and balance sheets to be prepared. There is currently no requirement for accounting separation to be applied to the cashflows of the business.

29.2.22 The following sections discuss how some of these problems have been addressed in other sectors.

29.3 Differences between economic and accounting costs

29.3.1 The statutory accounts in which nearly all railway businesses have sought to implement their accounting separation obligations do not apply the economic cost or profitability concepts required in a competition analysis. Economic and financial reporting measures of costs and profitability can differe for a number of reasons. These include:

- The timing of the relevant costs – financial accounts are concerned with historic costs, whereas economic analysis is often concerned with either expected costs or the current costs of an activity (as explained in paragraph 29.2.5 onwatds)
- Historic financial accounts will typically apply an accounting concept of depreciation, rather than an economic measure of depreciation

- Financial accounts do not attempt to show the costs or profitability of individual services – rather they are designed to provide a review of the financial performace of the business as whole (although some information may be given on different business units of the business, it is unlikely to be disaggregated to the level of individual services).
- Financial accounts do not apply the economic concepts of marginal costing. Instead the format is typically one which shows some measure of direct costs (cost of sales) and overheads.
- Financial accounts will include the actual financial costs and profit distributions of the firms. Competition authorities and regulators will however be more interested in including the economically efficient return needed to finance the business in a competitive market within the costs – typically measured as the required Return on Capital Employed (ROCE).

29.3.2 Given the many potential adjustments needed to measures of costs and profitability in statutopry accounts, many economic regulators require the preparation of stand alone separated accounts – so called 'regulatory accounts' specifically prepared to meet the requirements of the regulator.

29.4 Separated accounts in other sectors

29.4.1 At a European level, the preparation of separated accounts has been required in a number of different sectors including electricity,[488] post,[489] gas,[490] and telecommunications.[491]

29.4.2 In each of these sectors the key competitive concerns of cross-subsidisation, non-discrimination and fair pricing are similar, although the practical implementation of accounting separation has differed in each sector to address issues specific to the sector.

29.4.3 We have reviewed the accounting separation requirements in other sectors and identified three key reasons why they may be more effective than in the rail sector:

- The separated accounts are more detailed and specifically address regulatory and competition issues – in particular stand-alone 'regulatory accounts' are prepared.
- A separate audit opinion on regulatory and competition issues is specifically required.
- Guidelines and best practice for the implementation of accounting separation have helped establish a general understanding of good practice and a consistency of approach.

Regulatory Accounts

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[488] Directive 2003/54/Ec Of The European Parliament And Of The Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC
[489] Directive 2008/6/Ec Of The European Parliament And Of The Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services
[490] Directive 2003/55/Ec Of The European Parliament And Of The Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC
[491] Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in Telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP)

29.4.4 In each of these other sectors, regulators require the preparation of separate regulatory accounts to meet the accounting separation requirements, and provide other information necessary for regulation. This approach to accounting separation has a number of benefits. Firstly, it enables the accounts to be prepared using different valuation methodologies, cost standards or cost allocation methodologies which may be relevant for an economic assessment of costs and profits.[492] Secondly, the format of the accounts is not constrained by accounting standards which prescribe the format of statutory accounts in detail. Thirdly, the audit opinion can address the regulatory issues concerning the regulator directly.

29.4.5 The regulator can specify the format and methodology Regulatory Accounts to address any specific regulatory concerns. For example, separated accounts for each individual service could be shown in a way that enables potential sources and recipients of a cross subsidy to be identified. As discussed in paragraph 29.2.2 this requires the calculation of marginal and stand alone costs.

29.4.6 Stand-alone regulatory accounts are also useful even where the key parts of the vertically integrated business have been structurally separated and separate accounts are prepared for individual companies. This is because even in structurally separated businesses, there are likely to remain regulated and unregulated activities which need to be assessed separately. Also, in many sectors the regulatory accounts play an important role in determining prices and stand-alone regulatory accounts are often prepared in a way that provides useful in formation in relation to pricing (in particular to address discrimination and cost orientation issues).

29.4.7 We note that, with one exception, the requirement to prepare separated accounts in the railway sector has been addressed within the statutory accounts of the railway businesses.

29.4.8 The one exception to this is the UK where Network Rail, an Infrastructure Manager, is required to prepare a set of regulatory accounts in addition to the normal statutory accounting requirements. The UK's rail regulator states that:

> "Network Rail's regulatory accounts are the primary source of information about the company's regulatory financial position and performance.
>
> Their main purpose is to inform the determination of access charges and to monitor compliance with the most recent review of access charges.
>
> This enables robust financial monitoring of Network Rail and is useful to us, funders and other interested parties for these purposes"

29.4.9 This reflects the views of the UK rail regulator (the Office of the Rail Regulator ('ORR') on the purpose of regulatory accounts:

> "1.8 Regulatory accounts are designed to provide information about Network Rail's regulated business for use by us, funders, lenders, customers and other stakeholders for the primary purpose of informing our access charges reviews and of monitoring Network Rail's performance against the assumptions underlying the most recent access charges review. The regulatory accounts provide information in special-purpose financial statements. This information is more relevant for regulatory purposes than information contained in statutory accounts, as the statements are set out in a format consistent with the relevant ORR policy and the regulatory framework established in the 2003 periodic review of Network Rail's

[492] For example in telecoms, accounts are often prepared using an incremental cost standard

access charges ('ACR2003'). By contrast, statutory accounts are prepared as required by company law, and in accordance with the Companies Acts and either in accordance with UK Accounting Standards or in accordance with International Financial Reporting Standards and Article 4 of the IAS Regulation.

1.9 The regulatory accounts enable the following tasks to be carried out:

• monitoring financial performance against the assumptions underlying ACR2003;

• informing future access charges reviews and other regulatory decisions that require financial information, such as information on expenditure thresholds for interim reviews of access charges;

• assessing the financial position of the regulated business, in particular by reporting on the company's net debt and its RAB [Regulatory Asset Base]; and

• monitoring ongoing capital investment (particularly enhancements) made by the company in the rail network.

1.10 In developing these Guidelines, we have consulted with Network Rail and sought to minimise the regulatory burden on Network Rail. Network Rail is generally supportive of our revisions to these Guidelines"[493]

29.4.10 This extract shows that the primary purpose of Network Rail's regulatory accounts in the context of the UK market is to assess the costs of Network Rail as calculated for the purpose of setting track access charges (in the 'access charges reviews' and 'interim reviews of access charges'.

Regulatory accounts and infrastructure charging

29.4.11 Directive 2001/14/EC sets out the basis for setting rail infrastructure charges. In summary, infrastructure costs should be based on the marginal costs of operating the particular service, but mark-ups are also allowed to enable overall recovery of costs.

29.4.12 The Commission has sponsored a number of studies on cost allocation issues in the context of calculating infrastructure charges:

29.4.13 In particular the RailCalc project, which:

"… is a project commissioned by the Directorate-General for Transport and Energy (DG TREN) of the European Commission. RailCalc is aimed at developing a best practice guide to set and verify compliance of rail infrastructure charges with the rules of directive 2001/14/EC. Particular focus will be given to the estimation of charges and the calculation of mark-ups and the step-by-step harmonisation of the accounting practices in this domain."[494]

29.4.14 In most other regulated industries, the regulatory accounts are an important tool in setting charges and assessing compliance with pricing regulations.

29.4.15 This is recognised in the RailCalc report:

"Information for Market Regulation

§ 8.58 Accounted costs are necessary information for the regulator. Railway IMs are operating on the up-stream side of the rail network economy. In this position they have to

[493] ORR Regulatory Accounting Guidelines March 2009 http://www.rail-reg.gov.uk/server/show/nav.149
[494] http://railcalc.org/

treat every client in a fair and non-discriminatory manner. This is in particular an issue if the [infrastructure manager] IM is integrated with railway undertakings under the ….. … umbrella of a holding or a close alliance. Then, non-discriminatory behaviour of the IM has to be enforced by clear charging rules for the infrastructure access.

§ 8.59 Linking the tariffs to costs is a usual practice in regulating upstream businesses in networks. Regulation legacy sets a benchmark user charge for essential network facilities in terms of the allocated costs of efficient production.

§ 8.60 The methodology and criteria followed for the establishment of cost relation to charging may be subject to audit by the Regulator. In that sense, IM's cost accounting structures should be able to identify and justify cost drivers, taking into account that for price-setting purposes, IM's activities include both regulated and unregulated activities.

§ 8.61 Separate accounts for each regulated activity should be developed by the IM in order to determine the activities for which separate accounts should be prepared taking into account the fairness and transparency requirements stemming from the Legal Framework.

§ 8.62 Cost accounts should also make explicit any differences between the costs allocated to different activities by the IM and the costs that the regulator might have allowed for the purpose of determining charges. This will provide transparency about the extent of IM costs excluded by the Regulator for charging purposes and about the reasons for their exclusion."[495]

29.4.16 In our view, the Commission should consider whether the preparation of Stand-alone Regulatory Accounts for rail businesses is necessary in order that:

- The accounts are prepared to the sufficient level of detail needed for a competition and regulatory analysis.
- The relevant economic cost definitions can be applied (see above)
- The accounts can be used to support the establishment of a robust and transparent infrastructure charging regime.

Audit assurance on regulatory and competition issues

29.4.17 The Directives on accounting separation in the rail industry do not require an audit opinion to be expressed on the separated accounts.

29.4.18 This can be contrasted with other sectors where the separated accounts are specifically required to be audited, as shown in Table 461 below.

29.4.19 In our view, the Commission should consider requiring an audit opinion to specifically address the key regulatory and competition concerns in the separated accounts. This would lead to a significant improvement in the transparency, reliability and overall usefulness of the separated accounts.

Review of Accounting Separation Directives in other sectors

29.4.20 Table 461 below sets out the key areas of accounting separation laid down in European directives relating to other sectors.

495 RailCalc CALCULATION OF CHARGES FOR THE USE OF RAIL INFRASTRUCTURE D-5: Best Practice on Cost Structure 31st January 2008

Table 461 European directives relating to accounting separation

	Electricity	Gas	Telecoms	Post	Railways
Directive	2003/54/EC	2003/55/EC	2002/21	97/67, 2008/6	91/440, 2001/12
Context of Regulatory Accounts	Independence of transmission and distribution system operators and generation/supply companies	Independence of transmission and distribution system operators	Provision of services in specific markets on a cost oriented basis	Introduction of competition and identification of costs of providing a universal postal service	Focus on basis for charging of track access charges and prohibition of anticompetitive cross subsidies
Industry structure	Distribution and transmission systems to be operated by legally separate entities. [10(1) and 15(1)]	Distribution and transmission systems to be operated by legally separate entities. [9(1), 13(1)].	Operators may opt for either structural or accounting separation. [13(1)].	Focus on provision of a universal postal service	Accounting or structural separation of infrastructure management, freight and passenger operations
Preparation of annual accounts	"Electricity undertakings, whatever their system of ownership or legal form, shall draw up, submit to audit and publish their annual accounts in accordance with the rules of national law concerning the annual accounts of limited liability companies adopted pursuant to the Fourth Council Directive 78/660/EC of 25 July 1978 based on Article 44(2)(g) of the Treaty on the annual accounts of certain types of companies Undertakings which are not legally obliged to publish their annual accounts shall keep a copy of these at the disposal of the public in their head office". [19(2)].	"Natural gas undertakings, whatever their system of ownership or legal form, shall draw up, submit to audit and publish their annual accounts in accordance with the rules of national law concerning the annual accounts of limited liability companies adopted pursuant to the Fourth Council Directive L 176/66 EN Official Journal of the European Union 15.7.2003 78/660/EEC of 25 July 1978 based on Article 44(2)(g) of the Treaty on the annual accounts of certain types of companies. Undertakings which are not legally obliged to publish their annual accounts shall keep a copy of these at the disposal of the public at their head	"Where undertakings providing public communications networks or publicly available electronic communications services are not subject to the requirements of company law and do not satisfy the small and medium-sized enterprise criteria of Community law accounting rules, their financial reports shall be drawn up and submitted to independent audit and published" [13(2)].	n/a	n/a

	Electricity	Gas	Telecoms	Post	Railways
		office". [17(2)].			
Preparation of separated accounts	"Electricity undertakings shall, in their internal accounting, keep separate accounts for each of their transmission and distribution activities as they would be required to do if the activities in question were carried out by separate undertakings, with a view to avoiding discrimination, cross subsidisation and distortion of competition. They shall also keep accounts, which may be consolidated, for other electricity activities not relating to transmission or distribution. Where appropriate, they shall keep consolidated accounts for other, non-electricity activities. The internal accounts shall include a balance sheet and a profit and loss account for each activity. Electricity undertakings to keep internal separate accounts for transmission and distribution activities as if they were separate undertakings." [19(3)]	"Natural gas undertakings shall, in their internal accounting, keep separate accounts for each of their transmission, distribution, LNG and storage activities as they would be required to do if the activities in question were carried out by separate undertakings, with a view to avoiding discrimination, cross-subsidisation and distortion of competition. They shall also keep accounts, which may be consolidated, for other gas activities not relating to transmission, distribution, LNG and storage Where appropriate, they shall keep consolidated accounts for other, non-gas activities. The internal accounts shall include a balance sheet and a profit and loss account for each activity." [17(3)].	'Undertakings providing public communications networks or publicly available electronic communications services which have special or exclusive rights for the provision of services in other sectors in the same or another Member State" [13(1)].	"The universal service provider(s) shall keep separate accounts within their internal accounting systems in order to clearly distinguish between each of the services and products which are part of the universal service and those which are not. This accounting separation shall be used as an input when Member States calculate the net cost of the universal service. Such internal accounting systems shall operate on the basis of consistently applied and objectively justifiable cost accounting principles". [14(2)]	"Member States shall take the measures necessary to ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure. Public funds paid to one of these two areas of activity may not be transferred to the other. The accounts for the two areas of activity shall be kept in a way that reflects this prohibition." [6(1)] "In the case of railway undertakings profit and loss accounts and either balance sheets or annual statement of assets and liabilities shall be kept and published for business relating to the provision of rail freight-transport services. Funds paid for activities relating to the provision of passenger-transport services as public-service remits must be

	Electricity	Gas	Telecoms	Post	Railways
					shown separately in the relevant accounts and may not be transferred to activities relating to the provision of other transport services or any other business." [10(4)]
Purpose of Separated Accounts			"The purpose of imposing such obligations is to make transactions between operators more transparent and/or to determine the actual cost of services provided. Furthermore, accounting separation and the implementation of cost accounting systems may be used by national regulatory authorities to complement the application of other regulatory measures (e.g. transparency, non discrimination, cost orientation) on notified operators." [496]	"In view of the transition towards a fully competitive market, and in order to prevent cross-subsidies from adversely affecting competition, it is appropriate to continue to require Member States to maintain the obligation n universal service providers of keeping separate and transparent accounts, subject to necessary adaptations" "Keeping separate and transparent accounts should provide Member States and their national regulatory authorities with accounting information of sufficient detail to: — adopt decisions related to the universal service, — be used as an input when	"Fair and non-discriminatory access to the infrastructure needs to be guaranteed through the separation of certain essential functions and/or the creation of a rail regulator fulfilling the control and implementation functions as well as through the separation of profit and loss accounts and the balance sheets" [2001/12 Preamble 2] "To promote the efficient operation of passenger and freight transport services and to ensure transparency in their finances, including all financial compensation or aid paid by the State, it is necessary to separate the accounts of passenger and of freight transport services." [Preamble (9)]

[496] Preamble 2 Commission Recommendation of 19 September 2005 on accounting separation and cost accounting systems under the regulatory framework for electronic communications (2005/698/EC)

	Electricity	Gas	Telecoms	Post	Railways
				determining whether the universal service obligations imposed entail a net cost and represent an unfair financial burden on the universal service provider, — ensure that the tariffs applied to the universal service comply with the principles on tariffs as set out in this Directive, — ensure compliance with the principles on terminal dues as set out in this Directive; and, — monitor fair market conditions until competition becomes effective." [Preamble 41]	
Regulatory responsibility	Regulator to be responsible for "the effective unbundling of accounts… to ensure that there are no cross subsidies between generation, distribution and supply activities". [23(1e)].	Regulator to be responsible for "the effective unbundling of accounts… to ensure that there are no cross subsidies between transmission, distribution, storage, LNG and supply activities". [25(1e)].	Accounts not referred to explicitly in Directive, but in Recommendation: "It is recommended that national regulatory authorities require from the notified operators the disaggregation of their operating costs, capital employed and revenues to the level required to be consistent with the principles of proportionality,	"National regulatory authorities shall ensure that compliance with one of the cost accounting systems described in paragraphs 3 or 4 is verified by a competent body which is independent of the universal service provider. Member States shall ensure that a statement concerning compliance is published periodically." [14(5)]	

[497] Commission Recommendation of 19 September 2005 on accounting separation and cost accounting systems under the regulatory framework for electronic communications (2005/698/EC)

	Electricity	Gas	Telecoms	Post	Railways
			transparency and regulatory objectives mandated by national or Community law” “It is recommended that national regulatory authorities satisfy themselves as to the adequacy and effectiveness of the cost accounting and accounting separation systems; such systems may be subject to public consultation.” “It is recommended that a national regulatory authority, when assessing the features and specification of the cost accounting system, reviews the capability of the notified operator’s cost accounting system to analyse and present cost data in a way that supports regulatory objectives. In particular, the cost accounting system of the notified operator should be capable of differentiating between direct costs, and indirect costs.” “It is recommended that national regulatory authorities make relevant accounting information from notified operators available to interested parties at a		

	Electricity	Gas	Telecoms	Post	Railways
			sufficient level of detail"[497]		
Audit requirements	"The audit referred to in paragraph 2 shall, in particular, verify that the obligation to avoid discrimination and cross-subsidies referred to in paragraph 3, is respected."[19(4)].	"The audit, referred to in paragraph 2, shall, in particular, verify that the obligation to avoid discrimination and cross-subsidies referred to in paragraph 3, is respected." [17(4)].	"This [audit] requirement shall also apply to the separate accounts required under paragraph 1(a)". [13(2)].	"The financial accounts of all universal service providers shall be drawn up, submitted to audit by an independent auditor and published in accordance with the relevant Community and national legislation to commercial undertakings"[498]	n/a

[498] Article 15 Directive 97/67/Ec Of The European Parliament And Of The Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service

29.4.21 Table 461 shows that there are a number of differences between the regulatory accounting directives for railway markets and other sectors. In particular:

- The directive is silent on the responsibilities for the regulator to ensure separated accounts are properly prepared.
- The directive is silent on the requirement for the separated accounts to be audited.

29.4.22 In our view these two omissions contribute to failings of the current accounting separation regime as described in this report. These issues are addressed in our Best Practice guidelines.

Guidelines and best practice

29.4.23 In a number of sectors, the Commission has established international bodies of regulators to help develop communication and coordination amongst them.

29.4.24 These bodies have also prepared guidelines on best practice in regulatory accounting which can help ensure a common approach is adopted and that regulators benefit from each others' experiences. In particular we note the work done in the telecoms and energy sectors detailed in Table 462 below.

Table 462 Regulatory Accounting – Best Practice guidelines

Sector	Relevant Guidelines
Electricity and gas	European Regulators' Group for Electricity and Gas (ERGEG): ERGEG Guidelines of Good Practice on Regulatory Accounts Unbundling[499]
Telecommunications	European Regulators Group for electronic communications networks and services (ERG) Guidelines for implementing the Commission Recommendation C (2005) 3480 on Accounting Separation & Cost Accounting Systems under the regulatory framework for electronic communications[500]

29.4.25 In our view, the Commission should consider establishing an organisation for European rail regulators to support each other, provide coordination and develop best practice and guidelines for the application of European directives.

29.5 Suggested Regulatory Accounting Guidelines for Railway undertakings and Infrastructure Managers

29.5.1 The Regulatory Accounts should

- include separate profit and loss accounts and balance sheets for freight and passenger rail service operators and rail infrastructure management activities;

[499] http://www.energy-regulators.eu
[500] http://www.erg.eu.int/doc/publications/consult_accounting_sep/erg_05_29_erg_cp_rec_as_and_cas_final.pdf

- separate accounts should also be prepared for different rail operations and infrastructure services where appropriate for regulatory purposes (e.g. long-distance services, inter-city services, etc); and

- be prepared to a sufficient level of detail as determined by the regulator to enable them to perform their role.

Enforcement

29.5.2 The rail regulator should be provided with the requirement and authority to monitor and enforce the accounting separation regime.

29.5.3 Regulatory Accounts should be accompanied by documentation which explains the methodology applied in producing the accounts.

29.5.4 It should indicate the methodology used to allocate joint and common costs between different activities.

Accounting Methodology

29.5.5 Regulatory Accounts should be accompanied by documentation which explains the methodology applied in producing the accounts.

29.5.6 It should indicate the methodology used to allocate joint and common costs between different activities.

29.5.7 Separated Accounts should set out different cost categories at an appropriate level of disaggregation.

29.5.8 It may be necessary to prepare costs on a current cost basis using a "modern equivalent asset" approach. This involves determining the current cost of an asset if it was purchased now or where relevant if the modern equivalent version of that asset was purchased. In this case the basis of revaluation should be transparent.

Non-discrimination

29.5.9 The accounts should provide sufficient information to indicate the individual track access and other infrastructure charges paid for access to the rail infrastructure by both third-party rail operators and rail operators that form part of the infrastructure manager's group. In the latter case, these are termed "transfer charges". The basis for determining the transfer charges should be clearly stated.

29.5.10 This is likely to require the publication of data on volumes of individual freight, passenger and infrastructure services, prices for individual services and total revenues for individual services paid by internal and external customers.

Detection of Anticompetitive Pricing

29.5.11 The accounts should state fully allocated, incremental and marginal costs and revenues for individual freight, passenger and infrastructure services (or groups of services) to identify potentially anticompetitive pricing (cross-subsidies, predatory pricing, excessive pricing, etc.).

29.5.12 The return on capital employed (i.e. net profit relative to the total capital employed in the business) should be calculated for each individual freight, passenger and infrastructure service. It may be appropriate to include a 'cost of capital' (which reflects the combined cost to the company of serving their debt and equity holders) in the separated accounts to serve as a competitive benchmark against which to measure the return on capital employed. In this case, the basis for calculating the cost of capital should be clearly explained.

Level of disaggregation in accounting separation

29.5.13 If the national legislation requires prices of individual services, or groups of services, to be priced in a particular manner (for example track access charges or public service contracts), then the accounts should disaggregate the services to show revenues and costs for those particular services or groups of services to enable at least a first order test of compliance with the particular pricing regime attached to those services.

Use of Public Funds

29.5.14 The accounts should include details of individual sources and uses of public funds, including public service obligations and direct lump-sum transfers from the budget into the railway undertaking in a transparent and detailed manner. This could be achieved by providing a separate cashflow analysis which focuses on the source of inflows and the various outflows of cash.

Consolidated Group Structures

29.5.15 Where the regulated railway undertaking is part of a group structure, Regulatory Accounts should be prepared for the group as a whole, as well as the individual entities. In addition, full details of inter-company payments should be included in the Regulatory Accounts in order to ensure that public funds have been appropriately used.

Publication

29.5.16 The Regulatory Accounts should be published within a set period of the financial year end.

Audit

29.5.17 The Regulatory Accounts should be audited by an independent auditor with some duty of care to the Regulator – i.e. the Regulator should be involved in determining the requirements of the regulatory audit.

30 ANNEX 1 – Ratios

Ratio	Definition	Interpretation
Operating profit margin	Operating profit / Revenue	A standard measure of the profitability of the business's operations excluding the costs of finance
Net margin	Net Profit / Revenue	A standard measure of the profitability of the business's operations including the costs of finance
Return on Assets	Net profit / Total Assets	A standard measure of the profitability of the business in relation to the value of assets used in the business
Return on Equity	Net profit / Total Equity	A standard measure of the profitability of the business from a shareholders perspective
Viability ratio	Total operating income/total operating expenses	A measure of the overall profitability of the business and its ability to cover operating cots from revenues
Liabilities / operating Costs		A measure of the overall level of indebtedness of the business
Cost per staff member	Total costs/ number of staff members	A useful measure of the structure of the business. A high ratio implies relatively efficient operation in terms of number of employees.
Staff costs as a proportion of operating costs		A useful measure of the structure of the business. A high ratio implies relatively efficient operation in terms of number of employees.
Unit operating costs (Euro'000)	Total costs divided by volume of operations	An absolute measure of the relative efficiency of the business
Debt/Total Liabilities	Total Debt divided by Total Liabilities	A measure of the funding structure of the business
Debt: Equity ratio		A relative measure of the level of indebtedness of the business. A higher ratio implying more debt relative to the amount of funding the business has received from shareholders.
Quick ratio	Current assets less stock divided by current liabilities	A measure of the business' ability to repay short term creditors from cash and near cash assets
Current ratio	Current assets divided by current liabilities	A measure of the net amount of cash the company requires (or generates) to sustain its day to day activities.
Debt service coverage ratio	Operating Profit / Finance expenses	A measure of the ability of the company to meet its ongoing finance costs from operations
Public funding/ costs		A measure of the proportion of the business's operating costs met by public funds
Public funding / revenues		A measure of the proportion of the business's income provided by public funds