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EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposal for a Regulation of the European Parliament and of the Council

on the use of railway infrastructure capacity in the single European railway area, amending Directive 2012/34/EU and repealing Regulation (EU) No 913/2010

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A. Need for action

What is the problem and why is it a problem at EU level?

Rail is a sustainable mode of transport, which is expected to support the shift to a climate neutral EU economy. At present, the rail sector is struggling to provide services that meet the needs of the customers, in particular in regard to freight. First, poor performance in terms of responsiveness to customers' needs, punctuality, reliability and speed often make rail a second choice as mode of transport. Second, rail infrastructure managers and transport service providers (railway undertakings) do not always make good use of scarce rail infrastructure capacity.

The rules for the management of rail infrastructure capacity and traffic are set in EU legislation. **Directive 2012/34/EU** establishing a single European railway area sets up the Union's general legal framework for the Single European railway area. **Regulation (EU) 913/2010** concerning a European rail network for competitive freight ('the RFC Regulation') defines specific rules for 11 rail freight corridors which include lines crossing the territory of at least two Member States and linking two or more terminals. Evidence shows that the current framework does not serve all rail market segments equally well; in particular freight and cross-border transport struggle to get capacity of adequate quantity and quality to meet customers' needs.

Railway undertakings and infrastructure managers have lauched several initiatives, most notably the Timetable Redesign Project (TTR) aimed to revise the process for capacity management in Europe. However, the implementation of the measures tested in this project is only possible by changing EU legislation.

What should be achieved?

This initiative seeks to improve the management of capacity and traffic on the EU rail network with a view to support the growth of rail transport. To this end, the initiative aims to address the two key problems identified. Its specific objectives are to: 1) enable more effective capacity management procedures; 2) strengthen incentives to improve performance of rail infrastructure and rail transport services; 3) introduce more effective mechanisms for coordination between stakeholders, in particular across borders and 4) support the deployment of digital tools enabling better capacity and traffic management.

What is the value added of action at the EU level (subsidiarity)?

Even though the majority of rail passenger traffic is domestic, roughly half of freight traffic is cross-border and expectations are that demand for cross-border rail services will increase driven by the ambitious decarbonisation goals for transport and the policy measures proposed and put in place by the European Union and Member States. Therefore, there is a strong cross-border dimension for rail.

Action at EU level will inevitably consider the development of rail services that go beyond national borders. This allows to leverage the competitive advantages of rail which increase over longer distances. Action at EU level is essential for improving the punctuality and reliability of cross-border traffic. In addition, the new rules will affect positively the quality of all rail services on the network, including domestic ones.

The 2021 ex-post evaluation of the RFC Regulation outlines a rail market which, without further intervention at EU level, remains focused on national services, with railway undertakings and infrastructure managers missing out on the opportunity to expand on the basis of better performance. By design, infrastructure managers set up in the overwhelming majority at Member State level concentrate on managing the national rail network. Therefore, seamsless cross-border rail transport requires effective coordination and integration at EU level to address issues related to capacity and traffic for cross-border trains on the whole EU network, overcoming the limitations of the rail freight corridors, which are only responsible for part of the capacity on part of the rail network.

B. Solutions

What are the various options to achieve objectives? Is there a preferred option or not? If not, why?

Four policy options (PO1, PO2, PO3 and PO4) have been developed in the context of this impact assessment. All options propose solutions to the identified problems, but vary in terms of the scope of the actions envisaged at EU level. PO1 focusses on maintaining the corridor approach and extends it to all cross-border traffic. PO2, PO3 and PO4 are inspired by stakeholders' initiatives and introduce a

new and unique set of rules for management of capacity on the whole network. They differ in terms of the mechanisms to ensure coordination of capacity management across borders, as well as in aspects such as performance monitoring and regulatory supervision. PO2, PO3 and PO4 envisage an accelearation in the digitalisation and automatization of capacity management.

The preferred policy option PO3 introduces all measures proposed by the sector to modernise the rules for capcity management to better suit the needs of all rail market segments. It adds a rules-based coordination mechanism, empowering the network of infrastructure managers as a decision-making body, supported by a legally appointed operational entity. As a regulatory counterpart at EU level, it strengthens the mandate of the network of rail regulatory bodies. Detailed rules, including on the selection of an entity for operational tasks, which will support the decision-making process, will be laid down in non-legislative acts after extensive consultations with stakeholders.

What are different stakeholders' views? Who supports which option?

The stakeholder consultation has shown a clear consensus that the current rules for capacity management will not enable the rail sector to grow in line with policy ambitions at EU and Member State level. The approach to overcome the rigidity of the annual timetable process and to complement it with more strategic and more agile/flexible processes, as jointly pursued by railway undertakings and infrastructure mangers, found wide support. Notwithstanding consensus in general terms, stakeholders emphasized aspects particularly relevant to them. Railway undertakings stressed the fact that capacity management must consider market needs, warning of an excessively 'supply-driven' approach, which risks to make capacity management rigid and detached from customer needs. Some regulatory bodies shared that view and many of them highlighted the benefits of competition in rail transport markets, highlighting the importance of their task to ensure a level playing field particularly if infrastructure managers are given a more proactive role in capacity management. In this context, regulatory bodies maintained that any joint decision-making responsibilities of infrastructure managers at EU level need to be counterbalanced by similar powers at EU level on regulatory side.

As regards the introduction of coordination mechanisms at EU level, considering the key characteristic differentiating PO3 and PO4 from PO2, railway undertakings and infrastructure managers took a reserved stance in the initial phase of the consultation. Infrastructure managers emphasized that their expertise and on-the-ground knowledge could not be replaced by an EU level entity. Railway undertakings raised concerns that any EU level structures faces the risk of being sidelined by infrastructure managers in the face of the prevalent national interests. Railway underatkings placed higher expectations in an entity combining managerial and regulatory functions at EU level, in a subordinate position vis-à-vis infrastructure managers, as a driving force towards better conditions for cross-border rail transport.

Customers of rail transport services, in particular in the freight segment, have highlighted the need for urgent and significant increases in performance as an essential precondition for shifting additional transport volumes to rail. In particular for freight, the importance of reliability, punctuality and customer information have been emphasized. Rail customers have shown the relatively strongest support for the more ambitious policy options (PO3 and PO4), involving significant responsibilities at EU level.

Although limited feedback was received from Member States during the consultation, it was generally supportive of the objective of the initiative to promote the development of rail transport while remaing relatively vague as regards the means to achieve it. There was a tendency towards maintaining the corridor-based approach to cross-border coordination.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise of main ones)?

The preferred policy option results in total benefits estimated at EUR 13 502.7 million, expressed as present value over 2025-2050 relative to the baseline.

Direct benefits include an increase of the usable capacity of the existing infrastructure, which allows a 4% increase in rail traffic (expressed in train-km) compared to the baseline in 2050. Further impacts include improvements in train punctuality, the reliability of rail services and the reduction of the negative impact of rail infrastructure works on traffic. The benefits for railways undertakings due to the increase of the usable capacity are estimated at EUR 2 575.7 million, expressed as present value over 2025-2050 relative to the baseline, while those due to the improved train punctuality at EUR 658 million. The preferred policy option results in some cost savings, in particular for RUs and IMs (including of operational costs) but also for public authorities. Total costs savings for railway

undertakings are estimated at EUR 482.8 million, while costs savings for infrastructure managers at EUR 493.5 million (of which EUR 8.2 million administrative costs savings). For public authorites the total costs savings are estimated at EUR 9.4 million, expressed as present value over 2025-2050 relative to the baseline, of which EUR 2.6 million administrative costs savings.

Indirect impacts include additional employment (1.06 million additional persons employed over 2025-2050), as well as a reduction in the external costs of CO2 emissions, air pollutant emissions and, road accidents and congestion. The benefits due to the reduction in external costs are monetized and estimated at EUR 3 309.3 million for CO2 emissions, EUR 681 million for air pollution emissions, EUR 2 801.6 million for accidents and EUR 2 374.8 for congestion.

A number of economic operators should benefit from the increase in rail freight services and their improved quality. These include terminal operators and customers of rail freight.

Facilitation of cross-border rail services will also have a positive impact on passenger rail and thus benefit EU citizens.

When also considering the costs, the net benefits for the preferred policy option are estimated at EUR 11 408.8 million, expressed as present value over 2025-2050 relative to the baseline.

What are the costs of the preferred option (if any, otherwise of main ones)?

The costs of the preferred policy option are estimated at EUR 2 094 million in addition to the baseline costs, expressed as present value over 2025-2050.

The largest part of these costs will fall on infrastructure managers due to several policy measures. A major share of total costs results from the deployment of the IT tools and applications necessary to comply with EU technical specifications for interoperability (TAF TSI) for rail and to simplify capacity management through digitalisation and automation more generally. The EU coordination mechanisms will result in significant costs to ensure ongoing operations and sound decision-making. Infrastructure managers will also incur costs for ensuring the best possible alignment with the work at EU level and with their neighbouring peers. The high share of costs for infrastructure managers reflects that their role in capacity and traffic management is strengthened by the initiative, but also that they must provide a level playing field by implementing comprehensive consultation mechanisms. Total costs for infrastructure managers are estimated at EUR 1,609 million, expressed as present value over 2025-2050 (relative to the baseline).

The costs for railway undertakings that result directly from this initiative (EUR 435.1 million) are much smaller, and relate mostly to an accelerated introduction of TAF TSI compliant interfaces for their IT systems related to capacity management as well as to their active participation in consultations with infrastructure managers.

Regulatory bodies will need to ensure that their network has the resources to monitor and intervene in the new process of capacity management. Total costs for national public authorities, including regulatory bodies, are estimated at EUR 31.1 million, expressed as present value over 2025-2050 relative to the baseline. In addition the European Commission will incur costs estimated at EUR 1.8 million.

Other stakeholders (terminal operators and multimodal transport services) will bear smaller costs (EUR 17 million, expressed as present value over 2025-2050 relative to the baseline).

What are the impacts on SMEs and competitiveness?

The preferred policy option does not target SMEs, but it is expected to reduce the barriers to market entry and ensure a level playing field. This would favour new entrants on the market of rail services, some of which are likely to be SMEs.

Rail facility operators and providers of rail-related services, some of which are SMEs, are likely to see an increase in economic activity due to the increase in rail traffic.

Thus the initiative is expected to have an overall positive impact on SMEs.

Will there be significant impacts on national budgets and administrations?

Most infrastructure managers rely on state funding. As they are expected to bear a large part of the costs, it can be assumed that this will have an effect on the national budgets, in particular in the first 5 years due to necessary IT investments.

Will there be other significant impacts?
There will be positive impact on the internal market from the increase in rail traffic. The preferred policy option will result in a higher level of harmonisation and integration of rail infrastructure services, which will benefit operators developing cross-border services, thus providing opportunities for more competition and contributing to a single European railway area.
Proportionality
The preferred policy option does not go beyond what is necessary to reach the overall policy objectives. The objective to improve rail's performance includes cross-border traffic. The policy option provides a reinforced mechanism of coordination compared to the current rail freight corridors' governance, but takes into account the fact that at present rail traffic is predominantly domestic.
D. Follow up
When will the policy be reviewed?
The policy will be reviewed allowing for an adequate period of time after the proposal's adoption and the introduction of detailed rules via non-legislative acts. Policy measures will require time to take effect and to generate impacts. Unless implementation issues occur this will not be less than 5 years after the legislation comes into force. Furthermore, the Commission will be assisted by a performance review body and will participate in the work of the infrastructure managers and regulatory bodies at EU level, thus keeping an overview of the progress of implementation and the impact of the measures.