

POSITION PAPER

OUR TOP POLICY PRIORITIES FOR THE NEXT FIVE YEARS

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INTRODUCTION

The European Commission is not close to meeting its goals to reduce greenhouse gas emissions as detailed in its White Paper on Transport from 2011. Yet over the same period – in the few places where it has been permitted to exist - it has been proven that competition in the passenger rail market has led to lower prices and material modal shift, in some cases *doubling* rail ridership within just 7 years¹, **at a faster rate than even the 2011 White Paper aimed for.**

Meanwhile - also in the few places where it has been permitted to exist – fair competition in the downstream rail ticket retail market has brought about the transparent “multimodal connection platforms” that the 2011 White Paper also called for, in other words a quick & easy booking experience with rail as the backbone. Both types of competition have brought innovation, better service & new jobs – all at no cost to the taxpayer.

The next mandate of the Commission will be crucial for market opening and delivering on the expected benefits. In this paper, we will name our seven key policy recommendations for the next five years, identifying concrete solutions that would make the sector more efficient and attractive, with the aim of achieving modal shift to rail. **Otherwise we do not believe that Europe’s ambitious decarbonisation goals will be met on time – it will be too late.**

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¹ <http://www.cesisp.unimib.it/en/la-storia-di-italo-e-i-benefici-della-concorrenza-nellalta-velocita-ferroviaria/>

ACHIEVING A BETTER PASSENGER EXPERIENCE & PERFORMANCE:

POLICY RECOMMENDATION 1: IMPROVING TRANSPARENCY:

Regulation (EC) No 1371 of 2007 already stipulated that it is a passenger right to search and book all relevant rail options including fastest and cheapest services. However, in the meantime a number of new entrant operators have begun offering commercial services. There has also been a substantial technical advancement in the ability to aggregate different travel options and combine separate tickets. With taxpayers subsidizing the EU rail system with at least €70 billion per year, it is only right that passengers should be able to search and book all available rail options at all channels, both online and offline, both at independent and incumbent in-house ticket vendors. In addition: in the interests of passenger convenience, any ticket vendor should be able to serve as a “One-Stop Shop” for all rail-related enquiries, meaning real-time train running data should be made available.

This policy is not just about independent ticket vendors – it is crucial for new entrant operators as well. State-owned rail incumbents still enjoy well over 90% market share in rail ticket retail, often also sharing a brand with the infrastructure manager and station manager. This has the effect of distorting the market by giving the incumbents the opportunity to deny exposure to newcomers.

POLICY RECOMMENDATION 2: MANDATORY THROUGH TICKETING:

If the optimal (cheapest &/or fastest) journey between any 2 rail stations is by means of combining separate tickets/transport contracts **in an impartial manner**, why should passengers not be able to see & book such options and be covered by passenger rights from start until end of the entire journey?

This is particularly relevant to cross-border travel: while many longer journeys in Europe are easily accomplished by a single flight or bus, such as Cologne to Lille or Paris to Rome, the “equivalent rail journey requires 2+ legs and operators — bringing in a missed connection risk that does not apply to air or bus travel”². ALLRAIL believes that separate tickets from 2+ operators are a major way to attract budget conscious passengers away from less sustainable transport modes, such as low-cost airlines.

- **It’s crucial to stress that minimum connection times are agreed by all RUs and Station Managers – they are NOT put together at the ticket vendors’ discretion.**

Improved passenger rights like this would make for a truly integrated network and thus make the rail system more attractive, winning new customers and revenue. **It’s a real shame** that incumbents falsely claim that separate tickets are put together at ticket vendors’ discretion, together with baseless accusations about the additional cost of through tickets, while ignoring the benefit of revenue growth.

Solutions for 1 & 2:

- With API technical interfaces available to most Railway Undertaking reservations systems, digital One Stop Shops can now make multiple separate tickets seamless. Through tickets are no longer necessary - ticket vendors are delivering the same outcome, but entirely at their own cost.
- In the upcoming Trilogues on the EU rail passenger rights recast COM(2017)0548, it must be ensured that (1) all fares and timetables are shown & sold at all ticket vendors and that (2) there is guaranteed end to end coverage for separate tickets in the same one-way travel chain if purchased in the same booking transaction.
- Delay compensation should be based upon the value of the entire combined journey (across separate tickets), with liability being with the causer of the delay – **this would be a very effective way to achieve performance improvement across all operators.**

² <https://www.independent.co.uk/travel/news-and-advice/european-rail-operators-kinder-delayed-travellers-trains-expert-warning-mark-smith-seat-61-a8240216.html>

- **Introduce Multi-Modal Passenger Rights** that follow the same principle as above. If people can travel from door-to-door (within EU) on public transport without risk – with rail as the backbone, this would be one of **single biggest incentives to entice people away from the private car.**

EMBRACING DIGITALISATION:

POLICY RECOMMENDATION 3:

MOVE TO PASSENGER-CENTRIC, DEMAND-DRIVEN RAIL SERVICES

Particularly long distance passenger rail services need not be set to a rigid timetable; they can become more demand-driven, similar to the much heralded Mobility as a Service (MaaS) and indeed all other modes of long distance passenger transport (e.g. air, bus, car-sharing).

After all, wherever competition on the tracks has been introduced, experience shows that the heightened demand has “led to increasing frequencies on existing routes”³. It has also enabled many routes to become commercially viable that were previously subsidised⁴, bolstering EU 1370/2007 (Art. 2.e) which states that **a route should not be subsidised if it does not need to be.**

Solution:

- Urgent legislative re-working is needed to protect demand-driven, commercially viable passenger rail services. Current 4th Railway Package risks making liberalization more difficult & not easier.
- In order to attract private investors, guarantee that paths remain available and track access for commercially viable trains receives a higher priority than PSO services. If a public authority tries to introduce on a subsidized service on the same route, an Economic Equilibrium Test must take place in order to justify its existence, with results reviewed by an independent rail regulator.

POLICY RECOMMENDATION 4:

ENSURE MEANINGFUL PARTICIPATION IN EU DIGITAL RAIL INITIATIVES

The last 5 years have demonstrated that TAP TSI is **NOT the solution for retail and ticketing**. Essentially defined by incumbents, any perceived benefits to non-incumbents and to the travelling public are marginal at best. The Full Service Model (FSM) is also inadequate – it has not even attracted many of the other incumbents to join(!) Perhaps unsurprisingly, both concepts are flawed – they only allow for voluntary commercial agreements in an environment that desperately needs mandatory action in order to enhance both domestic and cross-border passenger rail integration.

Solution:

- Any ticketing, TSI or market-related initiatives & subgroups at the EU level that involve the EU Commission should come under the joint chair between incumbent with new entrant passenger rail companies. Only with such treatment is it possible to convince new entrants that the Commission is acting fairly (currently, many are demotivated from coming to Brussels in person).

ACHIEVING A PROPER SINGLE EUROPEAN RAIL MARKET:

POLICY RECOMMENDATION 5:

COMMERCIAL VIABILITY FOR INDEPENDENT TICKET VENDORS

Independent distribution has hugely benefited aviation and there is no reason why it cannot do the same in passenger rail. 3rd party ticket vendors comparing different operators’ products on the same route give the power to the customer to make informed purchase choices based on their own

³ https://www.railjournal.com/in_depth/italian-high-speed-success#.XMqlq2dFwDA.twitter

⁴ Such as the Vienna to Salzburg main line in Austria. It has competition and is not subsidised whereas other domestic main lines in Austria (e.g. Vienna-Graz and Vienna-Innsbruck) remain subsidised

preferences. They also have the ability to combine separate travel tickets together in an **impartial** manner to create new journey opportunities for customers - something that **incumbents' in-house ticket vendors still refuse to do**. **Such exposure is also critical for the success of any new entrant operator**. Controlling the downstream market for ticket sales is a subtle but hugely effective way of actually controlling the entire value chain & minimising the impact of new entrant operators.

In addition, independent ticket vendors are continually innovating in order to remain relevant and compete with other retailers. This in turn encourages incumbent ticket vendors to do so as well, meaning that ultimately all railway passengers benefit.

Unfortunately, incumbents are quick to declare the relationship with independent ticket vendors as a B2B matter, i.e. nothing that concerns regulators. Being market dominant on most routes and as the sole provider of access to their sales systems, incumbents are in a position to dictate unviable commercial terms for independent ticket vendors (for example low commission levels and unjustified marketing restrictions) that can drive them out of business, unless they charge an additional booking fee in order to cover costs, putting them at a competitive disadvantage to incumbents' ticket vendors.

Solutions:

- Commercial terms must be fair, reasonable and non-discriminatory (FRAND). There should be a reasonable and realistic rate of return.
- Independent rail ticket vendors should be able to sell in all markets & all channels, without any marketing restrictions. For example, it should not be the case that contractual terms stipulate that many terms cannot be used by independent ticket vendors in search engines, contrasting greatly to other industries (e.g. e-commerce, aviation and hotels).

POLICY RECOMMENDATION 6: NON-DISCRIMINATORY ACCESS TO ROLLING STOCK

Unlike in other - less environmentally friendly – modes of transport there is no active & vibrant second hand leasing market. Meanwhile EU incumbents often don't offer their second hand, amortised trains to new entrants, preferring either to scrap them or sell them abroad.

Brand new rolling stock is expensive in an industry that already has very high capital costs. Potential investors need much more money than if they were to invest in other transport modes – **it is therefore no wonder that non-EU rail manufacturers are now being seen as an attractive alternative**.

Solutions:

- Incumbents should be required to rent their underutilised fleet to independent newcomers especially when they are already authorised to operate in the same markets - **No scrapping**.
- If the market does warrant the establishment of privately owned ROSCOs for long distance rail, then taxpayer funding should provide such rolling stock pools.
- Equal opportunity: newcomers should be able to borrow from EUROFIMA at same terms.

POLICY RECOMMENDATION 7: INCUMBENT DE- BRANDING

Incumbents enjoy historical brand recognition, being THE default “Go To” ticket vendor and operator for rail services, with well-known apps/websites and inherited ticket counters & ticket machines at preferential location in railway stations. They also often share the same brand as the infrastructure manager and station manager. In such cases, profit oriented brands are sharing the same brand as the taxpayer-funded infrastructure manager and benefiting from its familiarity but not paying any market rate for this brand rental. The logo is ubiquitous – we call this **‘inherited brand equity’**.

Solutions:

- The branding of the incumbent's in-house operator and ticket retailer must be separated from that of the infrastructure/station manager. The profit-orientated divisions of the incumbent should rebrand while the neutral IM/station manager should retain the inherited logo.

SUMMARY:

It makes no sense that state-owned rail incumbents of Europe often for “fair competition among modes of transport”⁵ without there being fair competition *within* the rail transport mode first of all. After all, intramodal competition has helped all other transport modes to innovate; the same effect would occur in the rail sector.

The sad reality is that - despite competition both on the tracks and in ticket retail having brought benefits to passengers and the environment (wherever they have been allowed to exist) - progress over the last five years has been pitiful. Over the past 3 years, there have been no new entrants in long distance rail apart from Flixtrain, which itself has launched just one single new route over the past 12 months. Flix still operates less than 10 trains per day, almost two years after launch – this does not compare well to its expansion into the bus market which went much faster (!). Meanwhile in Spain, our member ILSA still has not even started operations yet, despite already many years of preparations.

Furthermore: most of our members that have been doing business for the past six to seven years are still losing money. Even more stopped and/or went bankrupt during the current Commission’s term. For example: HKX, Locomore, Interconnex, Saga Rail and FromAtoB – losing many jobs as well.

Without viable and functioning competition in the market, we don’t believe the sector will ever reach the Commission’s ambitious decarbonization goals. That means: the next Commission **must act fast – it will be the last chance to move the dial.** Due to the climate emergency, measures should be taken as emergency decrees and immediately implemented. The risk is great: if incumbents continue receiving positive discrimination (as detailed in the seven points above), then not only will **new entrants fail** but the environment will not benefit either.

While it is often said to us that the railway industry is too slow to change, the few islands of market liberalisation (e.g. in Italy) show us that this does not have to be the case - **modal shift by means of proper competition can be done, given the political will.** It may be that the time has come for some positive discrimination in favour of new entrants in order to overcome the wide variety of issues on which incumbents are currently positively discriminated; i.e. where they continue to have a monopoly, a very high market share or enjoy other asymmetrical market influence.

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⁵ <https://www.handelsblatt.com/politik/international/deutsche-bahn-ceo-richard-lutz-europes-strong-backbone-the-rail/24261300.html>