

STATEMENT

Commercial Conditions are key for a competitive Single European Rail Area

Brussels – 17th October 2025

As Trilogue negotiations advance, ALLRAIL takes this opportunity to highlight key concerns regarding Commercial Conditions, a crucial element in shaping the future of the European rail market.

The General Approach¹ adopted by the Council one year ago diverges in several respects from the EU Commission's original Capacity Management proposal, particularly in relation to the planning of works and Temporal Capacity Restrictions (TCRs), and the system of incentives intended to encourage all stakeholders, including Infrastructure Managers (IMs), to plan ahead and release capacity as early as possible.

Establishing a coherent and proportionate framework for Commercial Conditions is essential to ensuring the effective and transparent use of railway infrastructure across the Union.

To that end, ALLRAIL calls on the co-legislators to take into account the key priorities outlined below.

¹ Council document 10938/24 (*General Approach on the proposed Regulation on the use of railway infrastructure capacity*), 11 June 2024.

➤ **Temporal Capacity Restrictions must not be excluded from the IM penalty system and should be redefined**

The Commission's proposal rightly states that TCRs must still be subject to compensation, even if they are deemed "cost-effective" or of "minor impact" under Annex VII of the SERA (Single European Rail Area) Directive² or the future Annex I.

Yet even TCRs classified as having a minor systemic impact can result in severe disruption for specific applicants and end customers. International night trains, for example, may incur significant operational and financial consequences due to late TCRs — including re-routing costs, passenger assistance obligations, and compliance with the Rail Passenger Rights Regulation (EU) 2021/782.

In such cases, applicants should be entitled to both predefined penalties to be paid by infrastructure manager (to incentivise timely and reliable performance of the infrastructure managers) and compensation (to mitigate reputational harm and cover external re-routing costs).

Excluding TCRs from the compensation model creates a clear imbalance. The Commission's proposal itself confirms that planning within the proposed timelines should be "without prejudice to Article 40" (Annex I, Section 3), meaning that compensation should not be automatically excluded.

In this sense, the Regulation should empower the EU Commission, through a future unconditioned delegated act, to further adjust or fine-tune the deadlines and conditions set out in Annex I, taking into account feedback from operational stakeholders involved in the European Railway Platform (ERP).

² Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast), commonly referred to as the "SERA Directive"

➤ Improving the incentive model: redefining methodologies and parameters

The current model must be more holistic and responsive to the specific needs of different market segments (i.e. freight, passenger, and multi-network services). Penalties and incentives should not be linked to Track Access Charges (TACs), as TACs are unrelated to the actual consequences of capacity changes and would impose an unnecessary administrative burden on both IMs and applicants.

This concern is widely shared across the sector, including by the Rail Regulatory Body association (IRG-Rail)³ and reflected in the latest report of the Commercial Conditions Single European Railway Area Forum (SERAF) subgroup.

➤ Commercial conditions for multi-network capacity request

Compensation and penalties must apply even when the disruption stems from an IM responsible for only a small part of the journey. The impact on the entire operation can still be significant. There should be no exemptions or thresholds based on the size of the IM's network.

➤ Proportional thresholds for cancellation of unused capacity rights

To ensure fair treatment, thresholds for recurrent non-usage or cancellation should be proportionate to the total number of paths or the size of the capacity right. This would prevent smaller operators from being disproportionately penalised compared to state-owned incumbents, who typically hold much larger capacity rights.

In conclusion, the final Regulation must reflect the operational realities of all market participants and establish a fair, transparent, and enforceable system of penalties and compensation. Such a well-balanced legal framework will be essential to fostering competition in the European rail market and ensuring the efficient use of infrastructure, in full alignment with the objectives of the Single European Railway Area (SERA) Directive.

³ According to IRG-Rail "Penalties should not be connected with the level of track access charges, **as there is no logic connection between the track access charges and the level of penalty required** to create an appropriate incentive (...) limiting the penalty to a multiple of the track access charge risks leaving some countries with only the administrative burden of a system, without the chance to design it to have an actual effect on the parties' behaviour. The exact amount of **the track access charge may not be known in advance**, as it depends on the configuration of the train on the day of operation". Page 30 of the IRG-RAIL Long Report on Rail Capacity Management Regulation. Available [here](#)