



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 3.3.2004
COM(2004) 144 final

2004/0050 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on compensation in cases of non-compliance with contractual quality requirements for
rail freight services**

(presented by the Commission)

EXPLANATORY MEMORANDUM

Recent transport policy documents such as the Transport White paper of 2001 and the Commission Communication “Towards an integrated European railway area” of January 2002 underline the overriding importance of improving the performance of rail freight services in Europe in order to foster the development of rail freight and to contribute to more balanced modal shares in the European transport system. The Commission considers that the most important means of improving the performance of rail freight operations is the market integration policy that has been launched in the EU. The opening of rail freight markets and increased competition, coupled with common rules on rail safety and measures to promote interoperability between the fragmented national rail systems, is expected to bring improvement in performance. However, the rate of increasing competition is likely to be slow and gradual; hence service improvements will also materialise only gradually. However, it is important that performance enhancements are realised swiftly in order to convince rail freight customers of the benefits of continued use of rail transport, or of changing their logistical processes to favour rail transport. Therefore, the Commission is convinced that specific measures are needed to convince customers of the reliability of rail freight services. In the 2001 White Paper on transport and in the Communication of 2002 the Commission consequently announced their intention to propose a Regulation on compensations in case of non-compliance with contractual service requirements.

Since 15 March 2003 Member States have been obliged to enable open access to the trans-European rail freight network for railway undertakings that intend to provide international rail freight services. Some Member States have already opened up their rail freight markets on the basis of existing national legislation. For instance, in Sweden, Denmark, the UK, the Netherlands, Germany, Austria and Italy rail freight operators compete with the traditional railway undertakings. Some national rail freight markets experience quite respectable levels of competition. However, in other Member States, either the lack of an appropriate legal framework or the missing practical implementation of the framework have hindered any new market entry so far.

The overall traffic performance of rail freight in the EU is rather disparate. In the 1990ies transport volume grew slightly by 0,7% per annum after it fell in the 1980ies by 1,2% p.a. However, with a background of very dynamic growth in the overall transport market, the performance of rail compared to competing transport modes is very modest. In some Member States the traffic performance has been more dynamic, such as in the UK where the transported volume by rail has risen by 50% since 1994. This growth of rail freight traffic has been aided, amongst other things, by a strong increase in maritime container transport by rail through UK ports, in total 56% between 1992 and 2001.

The overall development in the service quality of international rail freight services is alarming. I Indicators for the punctuality of international combined transport trains, compiled by UIRR and covering all major European freight corridors, show that the level of performance is unacceptable. In 1999, 40% of combined transport trains were delayed by more than 30 minutes. Three years later in 2002, 52% of the trains were not on time; 7% were even delayed more than 24 hours. The major causes for the delays were missing locomotives or staff at hand-over points. Although there seem to be a slight amelioration in performance in the most recent months, the picture remains very disparate according to the corridor considered. The operation between Germany/Belgium to Spain through France via Port Bou registers particularly low punctuality rates. The same is true for the operations from Germany into Eastern Europe and from The Netherlands/Germany to Italy via the Gotthard route. On

the contrary, the punctuality of combined transport trains to Spain via Irun and the trains on the Brenner route is improving in the last months.

The cost impacts of poor service quality for the railway sector are considerable. Railway undertakings and combined transport operators cannot acquire new rail freight transport contracts and may even lose traffic to other modes. The possible consequences of poor service performance are lost revenues, inefficient staff and asset utilisation as well as increased compensation claims from customers. In 2000, the UIRR estimated that the overall annual cost of non-quality in rail freight to combined transport operators is €41 million, representing ca. 6% of total international revenues for UIRR member companies.

The current framework of compensations to customers in international rail freight transport is defined in the CIM annex to the COTIF¹. The CIM of 1980, currently in force, as well as the new CIM (corresponding to the text of the Protocol of Vilnius² not yet in force) stipulate that the railway undertaking must pay compensation in the case of loss, damage of the goods transported or the non-fulfilment of a maximum transport time. The CIM defines a reference transport time for a full wagon load of 24 hours for every 400 km run. This corresponds to a minimum average transport speed of 17 km/h which does not match with the expectations of today's customers anymore. In the road haulage sector a similar international framework, the CMR ("Convention relative au contrat de transport international de merchandise par route") defines the obligations in terms of transport time in a more appropriate, up-to-date manner referring to the time a diligent transport company needs for the shipping. Thus, the provisions in the CIM annex to the COTIF are not suitable in their current form in the transport market of today. Contractual quality requirements, including provisions for compensation in case of non-conformance to agreed arrival times in rail freight, exist today mainly for domestic traffic only. There are very few examples of such quality contracts in international transport. They are limited to trains of combined transport or block trains of high value goods such as automobiles ordered by powerful industrial clients such as car manufacturers. Effective compensation clauses are rarely proposed by traditional rail freight carriers, due to their dominant position in the market. New entrant railway undertakings generally conclude quality contracts with their clients.

The proposed Regulation creates an EU framework for compensations in rail freight which starts from the basic principles of the CIM provisions but tries to reflect better the realities of today's rail freight transport markets. It is characterised by a "light" regulatory approach, appropriate for a business-to-business market context. It provides market actors with contractual freedom whilst defining certain fall back rules for responsibilities of both carriers and customers, as well as compensation levels. A more detailed, prescriptive legal framework would not work as it would be impossible to develop rules in accordance with the numerous, specific needs of the rail freight market.

The basic parameters of the proposed EU Regulation on compensations are: the definitions of liability, quality criteria related to rail freight transport, compensation levels, a quality monitoring scheme, liability limitations and the responsibilities of rail infrastructure managers. The contracting railway undertaking, which has accepted goods for transport, is responsible for the transport over the entire route up to the point of delivery. Appropriate

¹ COTIF/CIV-CIM, Convention relative aux transports internationaux ferroviaire of 9 May 1980

² Protocol of 3 June 1999 « portant modification de la Convention relative aux transports internationaux ferroviaires (COTIF ») of 9 May 1980

quality criteria today are: the achievement of an agreed delivery time, information to the customers in case of a delivery problem and certain flexibility related to the transport order.

The compensation level for loss of and damage to the goods transported is set at € 75 per kilogramme of gross mass damaged. The tripling of this value compared to the one introduced by the CIM of COTIF 1980 is justified by the increase of the average value of goods transported in the last 25 years. The levels of compensation for the cancellation of trains by the railway undertaking and by the freight customer can depend on the period of notice given in relation to the date of transport departure. This corresponds to current market practice in national rail freight traffic.

The compensation levels for delays could be adapted, according to the severity of the observed delay in transport and dependant on the type of rail freight transport, i.e. block trains, wagon load traffic and transport organised around a central hub such as a terminal or a marshalling yard. However, for block trains the Regulation stipulates a compensation level of at least 5% and at most 25% of the transport price. These values are currently negotiated in practice, notably in international combined transport. In comparison, the CIM foresees no minimum compensation level in case of delays but rather a maximum level of up to four times the transport price.

Contractual parties have to agree on implementing an appropriate monitoring system allowing the unambiguous documentation of any possible non-respect of contractual requirements. Liability for normally standard conditions such as fault, force majeure or unavoidable circumstances is excluded. In the event that the rail infrastructure manager is responsible for a disturbance of traffic that leads to a delay in transport time, he is liable to the railway undertaking(s).

The Commission expects that the application of the proposed compensation scheme will provide effective incentives to railway undertakings to enhance the efficiency and flexibility of their production processes for rail freight services. In order to have a positive effect on quality performances, compensation schemes shall not be unduly subsidised by State aid measures and, to this end, the Commission is determined to ensure a level playing field in the rail freight market. A better organisation of staff and wagon use, the application of modern information tools allowing a real time tracking and tracing of trains and wagons on international routes and ensuring increased flexibility of the process to better meet the needs of the customers while ensuring a reasonably high level of safety can bring about cost reductions that the railway undertakings can account for as benefits of the proposed scheme. At the same time, the changes triggered by the compensation scheme will lead to quality improvements to customers, who may be incited to increase their demand for rail freight services. The overall economic benefits of the scheme have been estimated to amount to roughly €70 million per annum in an EU-15 context.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on compensation in cases of non-compliance with contractual quality requirements for rail freight services

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71 (1) thereof,

Having regard to the proposal from the Commission³,

Having regard to the opinion of the European Economic and Social Committee⁴,

Having regard to the opinion of the Committee of the Regions⁵,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁶,

Whereas:

- (1) It is important for the achievement of Common Transport Policy objectives that rail freight services improve their competitiveness such that the modal shifts, needed for a more balanced transport system, are enabled.
- (2) Lack of service quality is currently a major barrier to the development of rail freight services in the Community, as is shown by quality indicators and market share developments.
- (3) A lack of economic and contractual incentives is a significant cause of low quality performance in rail freight. The existing provisions for compensation to rail freight customers in the CIM Appendix to the COTIF⁷ do not provide effective incentives for quality. Specific regulatory measures to increase the quality of service are therefore needed to restore the confidence of rail freight customers in rail freight services.
- (4) The opening of network access for international rail freight services and a subsequent increase of competition could provide the incentives to market actors to improve their performance in terms of price and quality of service.

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ C , , p. .

⁶ OJ C , , p. .

⁷ COTIF/CIV-CIM, Convention relative aux transports internationaux ferroviaire of 9 May 1980

- (5) However, the increase of competition is likely to be slow and only gradual, hence preserving the dominant market position of existing national rail freight operators for years. The dominant market position of national rail freight undertakings renders it impossible for most rail freight customers to conclude transport contracts on fair and satisfactory terms. It is therefore necessary to provide for mandatory minimum requirements and a compensation scheme to be applied to transport contracts.
- (6) The compensation regime should cover losses and damage to transported goods, delays in delivery and cancellations as well as compensation for breaching any other quality requirements laid down in the transport contract. The compensation regime should also take into account the scope of the transport contract. A transport contract involving a complete train (block train) should therefore be treated differently from a contract involving a place in a train (wagonload) due to the level of risk assumed by the client in the case of block trains and because of the difficulties of establishing the initial liability for any delay in the case of wagonload.
- (7) A railway undertaking, committed to providing particular service quality levels, should be able to take recourse against rail infrastructure managers if the latter are responsible for events that negatively impact on the railway undertaking's ability to deliver its level of service quality.
- (8) The effects of this Regulation should be reviewed, in particular in relation to developments in the levels of competition on the relevant rail freight markets.
- (9) Since the objectives of this Regulation, namely to improve the quality of the Community's rail freight services, cannot be sufficiently achieved by the Member States in view of the significant international dimensions involved in rail freight operations and can therefore, by reason of the need for co-ordinated trans-national action be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

HAVE ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

This Regulation lays down the obligation of railway undertakings and rail freight customers to define quality requirements for rail freight services, and subsequent compensations in the case of non-compliance with the quality requirements in the transport contract.

This Regulation shall apply to all national and international rail freight services in the Community. Services to, from and through third countries are included if the Community has concluded an agreement on the subject matter of this Regulation with the third country.

Article 2
Definitions

For the purposes of this Regulation the following definitions shall apply:

- (a) "railway undertaking" means any public or private undertaking licensed according to applicable Community legislation, the principal business of which is to provide services for the transport of goods and/or passengers by rail with a requirement that the undertaking must ensure traction; this includes undertakings which provide traction only;
- (b) "rail freight customer" means any public or private undertaking that contracts with a railway undertaking for the provision of any kind of rail freight transport service;
- (c) "block train" means a rail transport service in which the customer buys from the railway undertaking the traction for at least one train established by the client, specifically scheduled for him and subject to a specific invoice;
- (d) "wagonload" means a rail transport service in which the client buys from the railway undertaking the transport of at least one wagon within a train established by the railway undertaking, scheduled by the railway undertaking and proposed to several clients and invoiced by the railway undertaking to each of them;
- (e) "infrastructure manager" means any body or undertaking responsible in particular for establishing and maintaining railway infrastructure. This may also include the management of infrastructure control and safety systems;
- (f) "transport contract" means a contract between a railway undertaking and a rail freight customer for the provision of rail freight services.

Article 3
Contractual quality requirements

Quality requirements for rail freight services shall be based on an agreement between the parties, resulting in rights and obligations and taking into account the specific circumstances of the transport contract.

The transport contract shall define in a detailed manner all quality requirements of the services concerned. The following quality requirements shall be included, otherwise the transport contract shall be void:

- (a) agreed times of hand-over of goods or wagons or trains between the railway undertaking and the rail freight customer;
- (b) arrival time and compensation for delays;
- (c) compensation in the event of losses or damage of goods;
- (d) compensation in the event of cancellation of a train by the railway undertaking;
- (e) compensation in the event of cancellation of a train by the rail freight customer;

- (f) a quality monitoring system defined by the parties.

Article 4

Principles of compensation in cases of non-compliance with contractual quality requirements by the railway undertaking

If the railway undertaking does not meet the contractual quality requirements according to the quality monitoring system defined in the transport contract, it shall pay compensation to the rail freight customer.

In particular, the railway undertaking shall be liable for:

- (a) losses or damages of the goods transported;
- (b) non-respect of agreed times of arrival;
- (c) cancellation of a train by the railway undertaking;
- (d) any other non-compliance with contractual quality requirements defined on mutual agreement by the parties in the transport contract.

Article 5

Principles of compensation in cases of non-compliance with contractual quality requirements by the rail freight customer

If the rail freight customer does not meet the contractual quality requirements according to the quality monitoring system defined in the transport contract, the rail freight customer shall pay compensation to the railway undertaking.

In particular, the rail freight customer shall be liable for:

- (a) non-respect of agreed hand-over times;
- (b) cancellation of a train by the rail freight customer.

Article 6

Compensation for loss of the goods transported

In the event of total or partial loss of the goods, the railway undertaking shall pay compensation calculated according to the market price at the place and at the moment of the take-over of goods.

Compensation for loss shall not exceed 75 euros per kilogramme of gross mass short, except where a declaration of interest or a declaration of value has been made in the transport contract. In such cases, the value or interest declared shall be the maximum level of compensation.

Article 7
Compensation for damage of the goods transported

In the event of total or partial damage of the goods, the railway undertaking shall pay compensation calculated according to the loss of value of the goods defined in accordance with the market price at the place and at the moment of the take-over of goods.

Compensation for damage of the goods shall not exceed 75 euros per kilogramme of gross mass damaged, except in the case a declaration of interest or a declaration of value has been made in the transport contract. In such cases, the value or interest declared shall be the maximum level of compensation.

Article 8
Compensation for delays

1. In the event of delays in relation to the arrival time agreed in the transport contract, the railway undertaking shall pay compensation determined by mutual agreement of the parties laid down in the transport contract.

For block trains, the amount of the compensation shall not be lower than 5% or exceed 25% of the transport price.

For wagonload, the amount of the compensation shall be determined by mutual agreement of the parties in the transport contract taking into account the specificities of wagonload transport.

2. In the case of a system of block trains organised around a central hub, the system of compensation mentioned in paragraph 1 shall apply to individual wagons on the basis of the transport price for a wagon.
3. If the rail freight customer does not fulfil the contractual requirements as to the agreed hand-over times for goods, wagons or trains, the rail freight customer shall pay a fair and appropriate compensation determined by mutual agreement of the parties in the transport contract.

Article 9
Compensation for lack of information about delays

If the railway undertaking does not make appropriate efforts and does not exercise due diligence to inform the rail freight customer about possible delays in advance of the agreed time of arrival, the railway undertaking shall pay a compensation determined by mutual agreement of the parties in the transport contract.

The amount of the compensation shall not be lower than 5 % of the transport price.

Article 10
Compensation for consequential damages

If loss or damages result from the arrival time agreed in the transport contract being exceeded, the railway undertaking shall pay compensation not exceeding four times the transport price, based on evidence of such losses or damages.

The compensation shall be payable in addition to the compensation provided for in article 8.

Article 11

Compensation for cancellation of trains by the railway undertaking

The parties shall define in the transport contract the amount of compensation by mutual agreement in case of the cancellation of a train by the railway undertaking.

Article 12

Compensation for cancellation of trains by the rail freight customer

The parties shall define in the transport contract the amount of compensation by mutual agreement in case of the cancellation of a train by the rail freight customer.

Article 13

Compensation in the case of a declaration of value of the goods transported

The railway undertaking and the rail freight customer may agree in the transport contract that the rail freight customer shall declare a value of the goods transported exceeding the limit provided for in article 6. In such a case the amount declared shall be substituted for the limit provided for in article 6.

Article 14

Compensation in the case of interest in delivery

The railway undertaking and the rail freight customer may agree in the transport contract that the rail freight customer declares an interest in delivery, in case of loss, damage or delays. In case of a declaration of interest in delivery further compensation for loss or damages proved may be claimed, in addition to the compensation provided for in articles 6, 7, 8 and 10, up to the amount declared.

Article 15

Exclusions of liability

Under the following conditions compensation shall not be applicable:

- (a) Fault of the rail freight customer, respectively the railway undertaking
- (b) Fault or any other act of a third person
- (c) Force majeure
- (d) Circumstances that the railway undertaking, respectively the rail freight customer, could not avoid and whose consequences he was unable to prevent, even with the provision of timely information on the occurrence of the circumstances.

Article 16
Responsibility of the railway undertakings

The contracting railway undertaking, which has accepted goods for transport, shall be responsible for the transport over the entire route up to arrival, including handling and/or transshipments of the wagons or the trains.

Whatever the organisation of the transport service by the railway undertakings involved, the contractual quality requirements defined in the transport contract shall bind all the railway undertakings factually and legally involved in the service.

Article 17
Liability of the railway undertaking for its servants

The railway undertaking shall be liable for its servants and other persons, including infrastructure managers, whose services it makes use of for the performance of the transport service, when these servants and other persons are acting within the scope of their functions.

Article 18
Actions against the infrastructure manager

In the event of a pecuniary loss to the railway undertaking resulting from compensation payable under this Regulation and falling under the responsibility of the infrastructure manager, the railway undertaking shall pay the appropriate compensation to the rail freight customer.

The railway undertaking shall have the right to claim compensation from the infrastructure manager to recover the compensation the railway undertaking has paid to the rail freight customer. This infrastructure manager's liability shall be without prejudice to the application of the performance scheme laid down in Article 11 of Directive 2001/14/EC of the European Parliament and of the Council⁸.

Article 19
Monitoring compliance with quality commitments

The transport contract shall include provisions on an appropriate mechanism to monitor compliance with the contractual quality commitments related to the services subject to this Regulation.

Article 20
Report

The Commission shall report to the European Parliament and the Council by January 2009 on the application and the effects of this Regulation in particular on the performance of rail freight services. The report shall be accompanied where necessary by legislative proposals.

⁸ OJ L 75, 15.3.2001, p. 29.

Article 21
Entry into force

This Regulation shall enter into force 20days following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

IMPACT ASSESSMENT FORM

THE IMPACT OF THE PROPOSAL ON BUSINESS WITH SPECIAL REFERENCE TO SMALL AND MEDIUM-SIZED ENTERPRISES(SMEs)

TITLE OF PROPOSAL

Compensations in the case of non-compliance with contractual quality requirements for rail freight services

DOCUMENT REFERENCE NUMBER

Number

THE PROPOSAL

1. Taking account of the principle of subsidiarity, why is Community legislation necessary in this area and what are its main aims?

One of the Community rail policy objectives is the improvement of rail freight performance. The Commission considers that the most important means to improve the performance of rail freight operations is the market integration policy that has been launched in the EU. The opening of rail freight markets and rising competition coupled with common rules on rail safety and measures to promote interoperability between the fragmented national rail systems will bring about the expected improvement of performance. However, the pace of increasing competition is likely to be gradual and hence the effects in terms of quality of service improvements will materialise gradually as well. It is however important to realise performance enhancement swiftly to convince rail freight customers of the benefits of continuing requesting rail transport or changing their logistical processes in favour of rail transport. Therefore, the Commission is convinced that specific measures to convince customers of the reliability of rail freight services are needed. The Commission considers a Regulation on compensations in case of non-compliance with contractual service requirements as an appropriate instrument to achieve the objective.

In the case of compensation schemes for rail freight EU action is needed as Member States have not come up with national legislation so far. Even if Member States would legislate at their level, there would be a high risk that the regimes would differ and submit railway undertakings to diverging business conditions that could lead to substantial distortions of competition in the case of competing international transport routes. EU rules on compensations should cover international and national services as both types of traffic are intimately intertwined and separate regimes for both types of traffic are not feasible.

THE IMPACT ON BUSINESS

2. Who will be affected by the proposal?
 - which sectors of business

The proposal will affect all railway undertakings that provide rail freight services in the EU as well as their customers (e.g. shippers, forwarders, combined transport operators, etc). It will also have impacts on rail infrastructure managers providing infrastructure capacity for the services of these railway undertakings.

- which sizes of business (what is the concentration of small and medium-sized firms)

The proposal concerns mainly the dominant traditional rail freight undertaking in each Member State as well as the national rail infrastructure managers who are normally in a monopoly position. However, the provisions of the Regulation also concern small and medium sized railway undertakings that operate on rail freight markets in some Member States.

- are there particular geographical areas of the Community where these businesses are found

The proposal affects all geographical areas of the Community with rail infrastructure and where rail freight services are provided.

3. What will business have to do to comply with the proposal?

The concerned railway undertakings will have to commit to contractual service quality arrangements with their customers, set up a quality monitoring system together with the clients and undertake possibly necessary adaptations of the production process to comply with the contracted quality requirements. Rail infrastructure managers will have to enter into contractual quality agreements with railway undertakings using their infrastructure.

4. What economic effects is the proposal likely to have?

The Commission expects that the application of the proposed compensation scheme will provide effective incentives to railway undertakings to enhance the efficiency and flexibility of their production process for rail freight services. A better organisation of staff and wagon use, the application of modern information tools allowing a real time tracking and tracing of trains and wagons on international routes and ensuring increased flexibility of the process meeting better the needs of the customers while ensuring a reasonably high level of safety can bring about cost reductions that the railway undertakings can account for as benefits of the proposed scheme. At the same time, the changes triggered by the compensation scheme will lead to quality improvements to customers who may be incited to increase their demand for rail freight services.

The Commission has commissioned a study on conceptual, legal and economic aspects of compensation schemes in rail freight. The consultant estimates the overall net economic benefits of the scheme to roughly €70 million per annum in the EU-15 context.

- on employment

The effect on employment is likely to be neutral. The implementation of compensation schemes in rail freight will incentivise railway undertakings to a more efficient use of their staff which could lead to lower employment levels. However,

the expected growth in demand for rail freight services induced by higher service quality could lead to additional recruitment which would offset the negative employment effect of productivity increases.

- on investment and the creation of new businesses

The proposal is likely to lead to some investment, for instance, in new and better performing rolling stock.

- on the competitiveness of businesses

The Commission expects an overall positive effect on business competitiveness.

5. Does the proposal contain measures to take account of the specific situation of small and medium-sized firms (reduced or different requirements etc)?

The proposal does not contain measures that take account of the specific situation of small and medium-sized firms as the smaller railway undertakings usually have already now a better quality of service performance and would hence not be affected directly in many cases.

CONSULTATION

6. List the organisations, which have been consulted about the proposal and outline their main views.

There have been consultations of European associations of rail freight market actors (such as CER, ERFA, UIRR, UIP, ERFCP, EIM) on the basic parameters of the Commission's proposal and of all actors including Member States on the findings of the study commissioned by the Commission on conceptual, legal and economic aspects of compensation schemes in rail freight.

The positions of the stakeholders are rather varied. Customer representatives are generally in favour of the basic parameters of the proposal whereas CER representing the interests of the traditional railway undertakings are strongly opposed to the draft Regulation. Whereas the former expect to gain from the initiative, the latter focus on the perceived cost impacts of the implementation of compensation schemes. ERFA and EIM take a rather neutral position. Judging on a legislative proposal all stakeholders including Member States recommend a light regulatory approach leaving a maximum of contractual freedom to rail freight market actors within a business-to-business environment.