

ERFA Position – Commission Regulation declaring certain categories of aid in the rail, inland waterways and multimodal transport sector compatible with the internal market

Overview

The proposal of the European Commission is a positive development in Modernising rules governing State Aid in the domain of transport and marks a significant improvement on the existing State Aid Guidelines for Railway Undertakings of 2008. The existing Guidelines were obsolete and no longer reflective of a competitive rail freight market. Whilst positives can be observed in the Commission proposal, significant care is required to ensure there is no unintended consequences resulting from such forms of operational aid.

Restructuring Aid

In the existing State Aid Guidelines, the European Commission allowed for restructuring aid to, under specific conditions, to be granted to a “freight division” of a rail undertaking for a transitional period up until 01 January 2010. Whilst it remains debatable whether this measure was needed or appropriate at the time, it is acknowledged that rail freight in 2010 was largely dominated by national incumbent operators. In 2010, national incumbents accounted for 75% of the European market.

Today, the dynamics of the European market have changed fundamentally. Challengers now account for 52% of the European rail freight market. The possibility of restructuring aid therefore has the potential to create competition distortion and reduce incentives for state owned railway undertakings to arrive at a good financial situation. Crucially, introducing a new possibility for restructuring aid would undermine private investment in rail freight.

ERFA therefore welcomes the decision by the European Commission that aid to undertakings in difficulty is excluded from the scope of the Regulation and that such aid should instead be assessed under the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty.

Operational Aid

Whilst operational aid can be a useful tool, it should not be the primary method to support modal shift. The objective of support measures should be supporting rail freight in a fair, transparent and non-discriminatory manner. Operational aid can often become a tool to support failing or non-effective business models or methods of transport organization. Care must be taken to ensure operational aid does not create unfair competition between sustainable modes of transport and within these modes.

For more information, you can Contact:

European Rail Freight Association asbl, info@erfarail.eu, Tel +32 2 513 60 87;
Rue Montoyer 23, B-1000 Brussels ; Reg nr. 0478.440.721. Belgian official gazette 26.11.2007

In regard to rail freight, a case in point here is Single Wagon Traffic and the proposal of the Commission not to introduce a distance limit to operational aid for Single Wagon Traffic. Whilst the Commission is correct in stating *“single wagon load operations, as such type of unimodal rail transport is less profitable than road-only transport irrespective of the distance covered, due to the costs of collecting and aggregating wagons of different customers”*, this does not take into consideration other methods of organizing a freight train.

Operational Aid to Single Wagon Traffic may not only create a competitive advantage for rail over road only transport, which can be welcomed, but also with block train traffic, which is problematic. Operational aid over long distances which is granted per/km may bring Single Wagon Traffic into direct competition with block train traffic, therefore only resulting in a shift from one way of organizing a freight train to another and having no impact on modal shift.

The objective of operational aid to Single Wagon Traffic should instead focus on short distance traffic and guarantees should be in place to ensure intramodal competition is not distorted.

Secondly, the 350km limit for operational aid for block train and intermodal traffic introduces a new limit on operational aid which may undermine existing and ongoing aid schemes. Some national support measures, such as the Italian Rail Freight Transport Scheme 2023-2027, do not entail distance limits. Establishing distance limits discouraging Member States to ask for approval of aids which go beyond the distances established by the Guidelines at the expense of the entire sector.

The guidelines can therefore be improved by firstly shifting the focus away from operational aid to reducing the cost of infrastructure use, and secondly either removing distance thresholds for all types of transport or introducing relevant thresholds for all, ensuring equal treatment.

Aid to Launch New Commercial Connections

The introduction of aid to launch new commercial connections, and the proposal to allow aid to cover operational losses for up to five years, should be approached with caution. Support should be granted in a transparent and non-discriminatory manner and be equally available to private and state-owned operators; unfair competition between subsidized and non-subsidized services must be avoided. There is a need to ensure situations are avoided when new commercial services are set up which are reliant on State Aid, thereby leading to a situation that after five years, the service needs to be discontinued due to financial unviability as it proves to be financially unsustainable.

Aid for Interoperability

One of the major financial burdens facing railway undertakings today is the requirement to invest in technologies which have little, if any, direct benefits to rail freight undertakings. This leads to significant problems in developing a coherent deployment strategy. ERTMS deployment requires significant public investment because of the reasons outlined above.

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ERFA therefore welcomes that ERTMS has been signaled out by the European Commission in deserving of a higher threshold for interoperability aid by setting the aid threshold at 80% compared to 50% for other forms of interoperability aid. ERFA would encourage that the threshold for interoperability aid is increased to 100% to allow Member States greater flexibility in this regard.

It should be recognized that the Guidelines do not introduce an obligation for investment and the role of the Guidelines should be to allow higher thresholds for aid where there is no business case for rail freight undertakings, rail freight undertakings are obliged to invest in system upgrades and where there is a long-term benefit in improved interoperability.

Aid for Purchasing Rolling Stock

ERFA welcomes the proposal that there is no possibility for Aid to be used for purchasing rolling stock for rail freight under the revised Guidelines. State aid for purchasing rolling stock has the potential to be highly distortive as there is already a functioning private market for purchasing and leasing rolling stock.