



Directorate-General for Competition – Unit F2
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Finnish Authorities' comments, draft Land and Multimodal Transport Guidelines (LMTG) and draft Transport Block Exemption Regulation (TBER)

Finland welcomes the Commission's consultation on draft revised State aid rules for land and multimodal transport. In general Finland supports the Commission's draft rules for new Land and Multimodal Transport Guidelines ('LMT Guidelines') which will replace the Railway Guidelines as well as Commission's draft for new Transport Block Exemption Regulation ('TBER'). However, Finland would also like to point out some proposed modifications, as well as specific areas that, in our view, require further clarification.

A sustainable transport sector is key to ensuring connectivity across Europe, fostering economic, social and territorial cohesion. Several aspects of the 2008 Railway Guidelines have become obsolete and are effectively no longer applied. Therefore, Finland supports the proposed changes that aim to broaden the scope of the Guidelines as well as consolidate and streamline the Commission's case practice under the Railway Guidelines and Article 93 of the Treaty. Finland also supports the aim to support the entry and growth of new operators in the sustainable land transport market.

Finland would also like to highlight that EU's State aid policy best supports the EU's economic growth when it targets the general interests of the Union and the market failures in a least distortive way. Sufficiently strict State aid policy and effective control of State aid are important not only from the perspective of the functioning of the internal market, but also from the point of view of Europe's competitiveness. Finland considers it important that the expansion of the Guidelines and the added forms of aid allowed under the TBER will not have undue distortive effects or aid competition in the internal market.

Scope of the Guidelines and the Block Exemption Regulation

In general, Finland supports that both the Guidelines and the TBER should, as a rule, only apply to the aid awarded in the form of aid schemes. However, taking into account the special features of the Member States' markets, Finland considers it important that the Guidelines enable the granting of individual ad hoc aid in situations where there are no other players on the market or no other players are going to enter the market in the near future.

Finland would also like to point out that the general starting point should be that only types of aid that support economic growth and Union's goals and minimize distortions of the internal market, should be exempted from the prior State aid notification to the Commission.

EU's goal to reach climate neutrality by 2050 cannot be achieved without a fundamental green and digital transformation of all modes of the European transport sector. Strengthening of rail, inland



waterways and sustainable multimodal transport sectors is an essential part of reaching that goal and achieving transport markets with full interoperability. Finland therefore supports the extension of the TBER to these types of aid as well. The proposal would allow for greater simplification and boost transparency, effective evaluation and checks of compliance with State aid rules. Limiting the TBER to only aid that is granted by Member States in the form of aid schemes minimizes the risk of distortions of competition and trade.

Land and Multimodal Transport Guidelines

Finland does not support the proposal according to which rail freight transport public service obligations (PSO) can be found compatible with the internal market according to the Guidelines under Article 93 of the Treaty. The minimum pricing for the use of the rail network is already set by the Union legislation to cover only the wear of the rail network. Low rail charges collected by national authorities already improve the competitiveness of rail freight transport and encourage to operate in the railway transport market. The Commission's proposal would not prevent the possibility in the future to grant aid to reduce those rail charges. Finland considers that rail transport PSOs should not be allocated to rail freight transport that is already largely organized on a market basis. If the Commission has identified specific market failures (e.g. shipment of single wagon loads) the rules should be specifically limited to combat that market failure. New state aid rules should also be in line with the Regulation (EC) No 1370/2007, which regulates public procurement of passenger rail transport services.

Transport Block Exemption Regulation

The purpose of TBER is to declare certain categories of State aid compatible with the internal market and exempt them from the requirement of prior notification to and approval by the Commission. This exemption would be a major simplification, which would enable Member States to quickly provide aid where conditions limiting the distortion of competition in the Single Market are met. As a result, a high proportion of currently notifiable State aid measures would in the future be implemented by Member States without the need for prior approval by the Commission. This would reduce undue administrative burdens.

The TBER should not establish such administrative requirements that make the application of the TBER very difficult in practice for the Member States. It is also important, that the rules are specific and clear enough that the implementation of the TBER is uniformed and consistent in all the member states. In this regard, Finland would especially like to point out that when it comes to operating aid to reduce external costs of transport (article 10), the eligible costs are defined as the avoided external costs of transport. The TBER states that the Member States should refer to the Commission's Handbook on the external costs of transport when calculating these costs. This could impose an unnaturally high administrative burden for smaller Member States.

Finland supports that the TBER is proposed to be in force only a limited time. Finland considers it important that the EU's State aid policy is reviewed regularly and that the TBER is modified based on the experience gained.

Article 11 Aid to launch new commercial connections

Finland considers it necessary to receive further clarification from the Commission on how the operating aid to launch new commercial connections relates to the PSO-aid, which can target new



routes/connections, granted under Regulation (EC) No 1370/2007. The relationship between these two regulations should be clarified in the recitals of the TBER.

Article 14 and 17

Finland supports the Commission's proposal that investment aid schemes supporting investments in tangible and intangible assets contributing to the technical adaptation and modernisation of vehicles for rail, such as retrofitting and/or refurbishment of rolling stock, shall be compatible with the internal market. Correspondingly, Finland also supports that aid for the acquisition of vehicles for rail transport shall be compatible with the internal market. Finland considers that aid for the acquisition and refurbishment of rolling stock can have positive effects on the competitiveness of the railway sector compared to the other forms of transport that entails major negative externalities, for example on environment, climate and safety.

Considering the objective of the proposal to facilitate the market entry of new players, in principle Finland supports that the aforementioned aid can only be provided to new entrants in the rail sector or railway undertakings, inland waterways transport operators or leasing operators in the rail and inland waterways sectors – if they qualify as SMEs. Especially in Finland, where the rail gauge differs from the rest of the Europe, railway undertakings face great difficulties in having access to the rolling stock. Finland considers it important that in order to remove the obstacles for competition, the aid should also be possible to grant to publicly owned rolling stock companies, which lease fleet/rolling stock to market operators or to the national competent authorities responsible for the procurement of public transport. Finland considers that a separate clarification on the matter in the TBER or in its recitals is necessary.

Finland also considers that in order to facilitate the new market entrants even more, aid granted for the acquisition of new rolling stock should have a condition that the old, still usable, rolling stock should be offered for rent or for sale before it can be scrapped.

Article 16 Aid for interoperability

Finland supports the Commission's proposal regarding the aid for interoperability in Article 16. Promoting multimodality enables more efficient utilization of the rail network. In both passenger and freight transport, the additional capacity and improved operational reliability brought by ERTMS creates opportunities for new operators to enter the sustainable land transport market. Finland welcomes the proposal based on which all costs necessary for the implementation of the eligible investments would be considered as eligible costs. Correspondingly, it is especially good, that The European Train Control System (ETCS), the Future Railway Mobile Communication System (FRMCS) and Automated Train Operation (ATO) as part of the European Railway Traffic Management System (ERTMS) are specifically mentioned in the article. This would enable the Member States themselves to determine more precisely the costs for which aid could be granted and take into account their specific national needs. Finland also supports that the adaptation of rolling stock to different track gauges is included as one of the eligible investment projects.

Regarding the European Railway Traffic Management System (ERTMS) Finland would also like to emphasize that instruments funded by the European Union must also continue to have a strong



focus on promoting the financing of ERTMS deployment, so that each Member State has an actual opportunity for implementation of ERTMS in the desired schedule presented by EU regulations¹.

There has already been an interest in the use of satellites in rail traffic management in Finland since the Digirail project (ERTMS) was launched in 2019². Satellite technology offers a sparsely populated country like Finland a cost-effective solution for the real-time locationing of trains for traffic management needs. When it comes to interoperability investments related to the ERTMS, Finland supports the Commission's proposal that costs related to the integration of European Global Navigation Satellite System (EGNSS) functions within the ERTMS are eligible for support.

However, Finland would also like to stress that it should be specifically stated in the new TBER that the aid for interoperability could be granted to any undertaking that performs investments in the roll-out of the interoperability technologies, such as telecom operators, and not only to undertakings in the rail, inland waterways and multimodal transport sectors.³ Finland also considers it important for legal certainty that the secondary legislation referred to in the Article 16 should be listed clearly in the references of the TBER.

According to Article 2 paragraph j '*individual aid*' means (i) ad hoc aid; and (ii) awards of aid to individual beneficiaries on the basis of an aid scheme. Article 4 includes notification thresholds and according to Article 4 paragraph b individual investment aid granted under a scheme for the construction, upgrade and renewal of rail facilities, inland waterways facilities and rail and inland waterways multimodal transport facilities cannot exceed EUR 20 million per project. Finland would like to ask some further clarification from the Commission on how this should be interpreted in relation to e.g. investment aid schemes supporting interoperability such as ERTMS? What is meant by project in this context, and is it intended that, for example, a beneficiary applying for aid from the investment aid schemes for interoperability (ERTMS) can have more than one project that is applicable for state aid?

Article 8 Cumulation

Finland would also like the Commission to clarify what is meant by the *total amount of public funding granted* and *the most favourable funding rate laid down in the applicable rules of Union law*, that are referred in Article 8(2) and recital 33.

¹ Commission Implementing Regulation (EU) 2023/1695 of 10 August 2023 on the technical specification for interoperability relating to the control-command and signalling subsystems of the rail system in the European Union and repealing Regulation (EU) 2016/919 (OJ L 222, 8.9.2023, p. 380).

² In the Digirail project, the train control system will be renewed. Finland's current train control system is approaching the end of its life cycle. The service life of the system will expire around the end of the 2020s. For Finland, the next logical step is to move to a European railway traffic management system (ERTMS) and a modern radio-based ETCS (European Train Control System). The recommended radio network is the Future Railway Mobile Communication System (FRMCS). Therefore, Finland's future ERTMS solution would be a radio-based ETCS implemented without visible signals and with a closely associated FRMCS radio network.

³ According to recital 7 "This Regulation should apply to State aid measures granted to undertakings in the rail, inland waterways and multimodal transport sectors" and Article 16(2) "The aid shall be granted to any undertaking that performs investments in the roll-out of the interoperability technologies referred to in paragraph 3".