

Berlin, 19. September 2024

## Consultation on the draft Guidelines on State Aid for land and multimodal transport - DIE GÜTERBAHNEN

### Introductory Remarks

DIE GÜTERBAHNEN represent the private rail freight sector in Germany. Our members include more than 110 private, regional, and international companies connected to rail freight transport. We aim to transport more goods by rail and thus make our contribution to meeting climate protection and transport targets.

We welcome the proposal of the European Commission to review and improve rules for State Aid for land transport. The existing State Aid Guidelines for Railway Undertakings from 2008 do not reflect the realities of today's sector: In the case of Germany, the share of rail freight operated by private companies grew from 21% in 2008 to 61% in 2023.

Acknowledging the caution given to fair and transparent handling of State Aid in the Commission's draft, we urge for even more consideration to upholding and strengthening competition in the sector, especially regarding operating aid. This is the precondition for the innovative, competitive, and efficient freight train operations run by our members. We appreciate the opportunity to contribute our position on this matter.

### Operating Aid

On the one hand, operating aid is a powerful tool that can offset destructive external effects on the sector. On the other hand, it can be highly distortive to competition and keep unprofitable business cases alive that would otherwise be replaced by more efficient and/or commercially viable operations. Therefore, operating aid should only be used in special cases and to counter unusual effects (e.g. price hikes for electricity and TAC, compensation for diversion).

In those special cases, operating aid should not be limited in distance. For example, during the recent energy crisis, prices for traction electricity in August 2022 rose to 881% of the prices in January 2021. For the renovation of the corridor Hamburg-Hannover over several months, one of our members calculated that their commercially operated route from Hamburg to Munich might run 1055 km instead of 820 km on the regular route. In both cases, operating aid might be appropriate to keep a (under normal circumstances) commercially viable operation running and to avoid losing transports to road.

Aid to launch new commercial connections could be exploited to cannibalize existing services or capacity reserves for ad hoc transports. Such aid should only be allowed under the premise of strict controls for fair competition, so it is not used as a loophole to replace old services with similar ones, labelled as new.

## Position

### Investment Aid

Investment aid is needed where the rollout of new technologies results in systemic benefits that have no immediate effect to offset the financial burdens placed on railway undertakings. Investment aid should therefore primarily be used to close financing gaps, where infrastructure upgrades require new technological systems (e.g. ETCS on-board units).

ERTMS presents a financial challenge for railway undertakings. The Commission rightfully sets a higher threshold for interoperability aid for this technology. Considering the high financial burden especially for First-of-Class projects, we propose increasing the threshold to 100% for ERTMS in order to ensure the appropriate level of aid for the rollout.

Interoperability measures are effective when all member states implement the same measures. The implementation of ERTMS should be the highest priority.

### Financial Flows In Vertically Integrated Railway Undertakings

Strengthening competition must be the basic principle for any state aid. For that purpose, a strict separation of aid between natural infrastructure monopolies and aid to railway operations is essential. The natural monopoly on infrastructure can be promoted “at will” to achieve transport policy goals and provide the infrastructure conditions for commercial railway operations.

To not distort competition, vertically integrated incumbents should be completely unbundled; until that is the case, provisions for financial flows in vertically integrated companies as outlined in the Commission's draft must be controlled and enforced as strictly as possible.

We welcome the decision of the Commission to not include restructuring aid in the draft. In today's highly competitive rail freight sector, restructuring aid, as included in the existing State Aid Guidelines, could distort competition, reduce incentives for state-owned railway undertakings to achieve profitability, and undermine private investment.

### Transparency

To close the information gap between national and foreign companies and facilitate cross-border transport, the transparency provisions that must be published on a member state's state aid website should also be published on a European website, which comprehends all state aid schemes (or at least directly refers to each member state's website).

### Contact

[Redacted contact information]

EU Transparency Register: [https://transparency-register.europa.eu/searchregister-or-update/organisation-detail\\_de?id=683572350773-09](https://transparency-register.europa.eu/searchregister-or-update/organisation-detail_de?id=683572350773-09)