

POLICY BRIEF

EUROPEAN TRANSPORT REGULATION OBSERVER

New rules for better rail capacity management

Highlights

Rail has a key role to play in making EU transport more efficient and sustainable, in line with the goals of the EU's sustainable and smart mobility strategy. Increasing passenger and cargo volumes requires investment in infrastructure but also a more efficient track capacity management, particularly for cross-border services. Regulation (EU) 913/2010 introduced cooperation mechanisms to ensure sufficient, flexible and high-quality infrastructure capacity along EU rail corridors for rail freight operators.

Unfortunately, Regulation (EU) 913/2010 did not achieve its objectives, due to the difficulty of managing capacity separately for corridors and for freight without involving the rest of the network and passenger traffic.

Accordingly, on 11th July 2023, the Commission proposed a new Regulation on the use of railway infrastructure capacity in the single European railway area. The Regulation is inspired by an industry led project (Timetable Redesign – TTR) and includes major novelties:

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(1) a revised multi-annual planning cycle for management and allocation of capacity; (2) reinforced mechanisms for coordination among stakeholders; (3) transparent rules for capacity allocation, particularly in case of scarce infrastructure capacity, including socio-economic and environmental criteria; (4) more flexible timing for capacity allocation; (5) better coordination for cross-border services; (6) a Performance Review mechanism; and (7) stronger role for existing entities (ENIM, ENRRB) and a new Network Coordinator.

The 23rd Florence Rail Forum gathered representatives from the Commission, national regulatory bodies, stakeholders (mostly Infrastructure Managers and Railway Undertakings) and academics for a discussion on how to better manage rail capacity in the EU. More specifically, the Forum addressed the following critical questions:

- Capacity planning: Formalizing the dialogue for capacity planning and allocation. What would be the best instruments to ensure the fruitful dialogue between IMs and RUs, but also Regulatory Bodies and other stakeholders for capacity planning and allocation?
- Capacity allocation: Defining harmonized prioritization criteria. How to define prioritization criteria in case of scarce infrastructure capacity? Definition of socio-economic and environmental criteria.
- Track Access Charges (TAC): How to harmonize TAC in the EU? What principles? What are the right incentives?

New rules for better capacity management ... and then what?

Juan Montero, Matthias Finger

The 23rd Florence Rail Forum discussed the proposal the Commission had tabled on July 11th 2023 for a Regulation on the use of railway infrastructure, so as to advance an efficient and decarbonized single European transport area.

This very comprehensive and detailed proposal focuses on increasing and even more so on securing reliable rail infrastructure capacity for both passenger and freight railway undertakings (RUs) within the framework of open access and competition (among RUs), available and reliable capacity of railway infrastructures being a condition for the much needed modal shift from road (and air) to rail.

The proposal has identified the three main challenges in this regard, namely (1) the tension between the need for long-term stability for passenger trains (so that the RUs can plan better and sell tickets well in advance, e.g., yield management) on the one hand and the short-term flexibility of freight RUs on the other; (2) the lack of clear criteria for Infrastructure Managers (IMs) to apply in case of congestion; and (3) the lack of harmonization when it comes to cross-border operations.

In order to address the first challenge, the Commission proposes a three-phase capacity allocation process from long-term strategic capacity planning for a 5-year period, annual allocation of capacity, to ad-hoc capacity allocation. In this way, a continuous cycle of capacity managing should ensure the availability of capacity for the various needs.

For the second challenge, the Commission introduces socioeconomic and environmental prioritization criteria that IMs can use in case of congestion. Such criteria can be used both for the 5-year long strategic planning and for annual capacity allocation. The Swedish experience is a good point of departure, but further refinement will be necessary.

Finally, when it comes to cross-border capacity planning and allocation, the Commission wants to give more power to the European Network of Infrastructure Managers that had been created already

back in 2013, but which has remained quite toothless so far.

Even though the IMs are overall strengthened and are given a more active role in managing infrastructure capacity thanks to new capacity planning and capacity allocation tools, they have to act under the overall premise of consultation of and dialogue with the rest of stakeholders, not only RU but service facility managers, etc.. One may legitimately ask whether (all) IMs will be ready to take on such a role, given that, as a result of broad liberalisation and (partial) unbundling, they have been put into much more passive (and purely engineering) role. While some big properly unbundled IMs might indeed take on and enjoy such a role, smaller, not properly unbundled, and IMs that are already now micro-managed by their respective ministries might not.

Overall, it seems to us, these new tools given to the IMs as well as these new expectations put on the IMs should be accompanied by corresponding systemic governance mechanisms. If IMs are given more power thanks to this proposal, they should be better supervised and regulated. There is indeed the idea of reinforcing the role of the association of national Regulatory Bodies. Furthermore, a Performance Review Body is foreseen in the proposal, an idea borrowed from the air transport sector. This body would somewhat supervise the performance of IMs when managing capacity.

Main takeaways from the discussions

Natalia Gortazar Enrich

Discussions

The Forum started with some general considerations on the EU Proposal itself, which aims not only at improving the capacity allocation procedure, but also at introducing the concept of strategic planning and at defining a more active role for Infrastructure Managers.

Capacity Planning: Formalizing Dialogue for Capacity planning and allocation

One of the pillars of the proposed Regulation is the adoption by Infrastructure Managers of a more ac-

tive role in the process of track capacity allocation. Beyond the annual allocation, the Proposal creates a cycle for capacity planning. Strategic capacity planning includes the definition of a capacity strategy by Infrastructure Managers, the definition of a capacity model and a capacity supply plan.

The more active planning by Infrastructure Managers requires a close coordination with other stakeholders in the ecosystem, in particular Railway Undertakings. The Proposal imposes upon Infrastructure Managers the obligation to run consultations with all operational stakeholders. A session was devoted in the Forum to discuss how such consultations could take place.

The point of departure was the experience in Spain, where the Infrastructure Manager, ADIF, in the framework of the liberalization process, pre-planned the optimum use of track capacity according to the business models proposed by Railway Undertakings potentially interested in entering the market. ADIF explained how consultations were run with companies potentially interested in entering the market.

According to ADIF, the key elements of Spanish successful dialogue were: (i) the optimization of capacity in a way compatible with the business model of potential newcomers, (ii) the establishment of neutral and objective rules in order to promote transparency and non-discrimination, and (iii) the reinforcement of commitments towards Railway Undertakings, in the form of Framework Agreements, so that they can properly compete, not only against each other but also across the different transport modes.

Based on the business models identified in the consultation, ADIF optimized the use of capacity, particularly in the large stations (the bottleneck in the network) ensuring an intensive use of the rolling stock and high frequencies through short turnaround times in terminals. Three asymmetric Framework Agreements were defined: one along the lines of the existing services provided by the incumbent, a second one for a head-to-head competitor, and a third one for a low-cost operation with a small number of frequencies.

As a result, ADIF increased by up to 60 percent the number of high-speed services to be provided over

the same infrastructure. At the moment there are three competitors providing high speed services in Spain and the number of passengers has increased more than 40 percent since the peak in 2019 (more than 80% in some routes), as frequencies have improved, and prices have diminished.

At the same time, given the natural monopolistic nature of Infrastructure Managers, it must ensure some counterbalancing mechanisms are put in place. Railway Undertakings should always be guaranteed a transparent, objective, and non-discriminatory access to the network.

The main countervailing instrument in Spain was the supervisory role of the national Regulatory Body, CNMC. Fruitful discussions between Railway Undertakings and Infrastructure Managers require supervision by regulatory bodies, whose main task is to ensure that Infrastructure Managers respond to the market needs defined by Railway Undertakings (and other stakeholders such as service facility managers).

The active role of Infrastructure Managers as capacity planners was questioned by certain stakeholders who consider they don't have sufficient market knowledge with regards to the market needs, including demand for services, the situation in other parts of the logistic chain (buses, lorries, ships, airlines, etc.). Some stakeholders questioned Infrastructure Managers would have real incentives to meet market demands.

In parallel, Infrastructure Managers underlined the need of Railway Undertakings to participate loyally in the consultations. Incentives might be necessary to ensure an honest disclosure by Railway Undertakings of their real long term needs in terms of capacity, and not overestimate it to obtain a larger share of capacity, which would later not be used. In other words, compensation mechanisms might be needed because the cost of wasted capacity is too high to bear.

Railway Undertakings underlined that, in any case, certain flexibility is necessary in the strategic planning process. Capacity needs after the allocation process can vary depending on market circumstances, both in terms of an excess of capacity planned for a certain use, or the contrary. Rigidity in the planning has important downsides. For Railway

Undertakings, it would be useful if Infrastructure Managers allowed the introduction of minor changes at a later phase with no penalties.

Capacity allocation would evolve from an annual exercise to a cycle starting with the strategic planning, reaching its peak with the annual allocation of capacity, but with flexible tools for ad-hoc allocation when needed.

Finally, the complexity of the strategic planning process for cross-order services was underlined. Pre-engagement procedures with Infrastructure Managers vary across countries, and sometimes they become really complex. In this sense, it would be useful to have a harmonized procedure.

Overall, stakeholders' opinion regarding the strategic capacity planning in the Proposal was mostly positive by the stakeholder, and the need for a real dialogue with the right incentives for all the parties was underlined by all the participants, even if some of them expressed doubts about which would be the right incentives.

Capacity allocation: defining harmonized prioritization criteria

The aim of this Session was to explore the challenges derived from the use of socio-economic and environmental criteria for the allocation of capacity in case of congestion. One of the loopholes in the Recast Directive was the lack of prioritization criteria in case of congestion in the use of the infrastructure.

In order to properly assess this topic, attention was focused on the Swedish experience with socio-economic criteria for the allocation of track capacity. Sweden is one of the first countries to implement a capacity allocation model based on socio-economic factors. A value is attributed to different uses (long-distance passenger services, commuting services, freight services) in such a way that in case of conflict in the use of infrastructure, the regulatory body can apply predefined rules to solve it.

The Swedish model is perfectly in line with the goals of the proposed Regulation: "to maximize the value to society of rail transport services enabled by rail infrastructure in social, economic, and environmental terms". However, the model was built to use it in

the Swedish railway market, a market with its own characteristics. Therefore, some adjustments will be needed if it wants to be implemented elsewhere.

It must be underlined that this is a model to be applied only as an instrument of last resort, i.e., in case of the infrastructure being declared as congested. Overall, this model has proved to be a successful method for solving most capacity conflicts in Sweden, but not all of them. However, it is also fair mentioning that the model has only proved to be successful within Swedish territory, and its use has only been put in place at the latest stages of the capacity allocation process.

Several drawbacks to this model were highlighted during the Forum. First, it is still not completely clear whether this model would easily plug into the strategic capacity planning approach, before the actual capacity allocation, even if it really provides an opportunity to make the allocation process more transparent, predictable, and objective.

Second, this model might not be in the position to prioritize between rail services of the same type, that is services from competitors in the provision of, for instance, high-speed passenger services. This kind of disputes might increase as competition expands around Europe. In fact, it was made the case that socio-economic criteria could not be the most suitable solution for this kind of situations.

Third, the difficulty of building an EU-wide socio-economic model satisfying all Member States must be underlined. Passengers and shippers across countries do not have the same valuation criteria. Even within one country people constantly differ. This makes things complicated but not impossible. The model will certainly need to be adapted depending on the country's specific circumstances, but the fundamentals will remain constant.

Moreover, the excessive broadness and ambiguity of article 8 in the Proposal was put on the table, when it includes some factors to be taken into account when assessing alternative options regarding the use of infrastructure: (i) operating cost, (ii) time-related cost for customers, (iii) connectivity to regions, (iv) pollution, and (v) safety and public health implications. A large group of stakeholders believed this article could be further developed.

It was raised that this model will never satisfy all parties in case of conflict. Discussions on methodology and definition will remain, and overcomplexity and high transaction costs can arise.

A fundamental challenge was raised by Infrastructure Managers as to the application of this model. Certainly, the model may identify and quantify the benefits for society in order to take them into account to prioritize one traffic against the other. But Infrastructure Managers need to take into account also their own financial benefits. Prioritizing services paying low track access charges has a cost for the Infrastructure Manager, a cost that the model does not take into consideration. It is not a coincidence that the model was introduced in Sweden, where public subsidies are particularly high so the Infrastructure Manager has a reduced dependency on track access charges

In this context, some Infrastructure Managers raised their concerns. Finding a good balance between social and financial benefits is a complex task, especially for those Managers facing financial challenges and a low level of state subsidies. In contrast, newcomers suggested reconsidering Infrastructure Manager's main goal: should Infrastructure Managers seek maximization of profits, or should they focus on long-term targets such as the increasing collective mobility, increasing total number of passengers, decreasing environmental footprint and lowering prices by reducing barriers to entry?

After a meaningful dialogue on the model's main elements, the idea of having entrusted Infrastructure Managers with too many responsibilities was also explored. According to some participants, the Proposal might be giving too vague a role to Infrastructure Managers to conduct welfare economics. For this reason, even if the definition of socio-economic and environmental criteria seems fit, it is considered it will be essential to develop some sort of guidelines on how to apply them.

Track access charges: new guidelines

The scope of the session was to discuss on how the existing rules on Track Access Charges should be applied, as the Commission is preparing Guidelines on Track Access Charges.

The financial structure of Infrastructure Managers is a peculiar one. As any other business, Infrastructure Managers try to cover costs (construction, maintenance, renewal, etc.) through different funding sources. Two relevant financial sources are (i) subsidies provided by States, and (ii) fees paid by Railway Undertakings for the use of rail infrastructure (track access charges). However, the rule in Directive 2012/34 is that "charges for the minimum access package [...] shall be set at the cost that is directly incurred as a result of operating the train service" (Art. 31(3)). Direct costs for the use of the infrastructure, of course, cover only a fraction of the total costs of the Infrastructure Manager. Beyond direct costs, "in order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may, if the market can bear this, levy mark-ups on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimal competitiveness of rail market segments" (Art. 32(1)).

Despite the common rules in Directive 2012/34, Track Access Charges diverge very substantially across Member States. Some Infrastructure Managers benefit from large state subsidies, so they do not apply mark-ups to cover costs (or only in a small proportion). This is the case of Sweden. Other Infrastructure Managers find a hard time trying to cover the full cost of infrastructure, as the level of subsidies is lower. This is the case of Germany, France, and Spain. Infrastructure Managers are in search for alternative funding sources, mostly in the form of the so-called mark-ups. And even with mark-ups, there are still countries that have had to fall back on debt so as to cover costs.

It must be considered that without revenues, Infrastructure Managers would necessarily have to reduce maintenance and renewal costs, which in turn leads to low quality infrastructure and could also eventually lead to the closing of the line in question. This is even more the case of the construction of new infrastructure, which is required to meet the ambitious increase in passengers and cargo to meet the Green Deal objectives.

A substantial part of the session was devoted to a conceptual discussion on the nature of subsidies coming from the states, a discussion with relevant consequences. It was suggested that a way of get-

ting Infrastructure Managers off the financial hook was to change the way we think about subsidies.

Subsidies are currently considered to be a pre-determined input, i.e., an ex-ante amount of money given by the state to Infrastructure Managers. Based on this input, Infrastructure Managers often calculate the revenue they need to make in Track Access Charges and then they justify ex post the ability to pay of the different market segments in the form of mark-ups. The point is that if the market cannot bear mark-ups, according to Directive 2012/34, Infrastructure Managers should not introduce them. This could potentially mean for Infrastructure Managers (if subsidies are low) not being able to balance their accounts.

In this context, it would be substantially different for Infrastructure Managers if subsidies were to be determined ex-post as an output of the process. This would be a way of guaranteeing total coverage of costs. Only after fixing the amount of track access charges, including the mark-ups the market can bear, subsidies could be calculated as the residual amount necessary to cover costs.

Setting up subsidies as an output would obviously require a clearer definition of the “market can bear test” and how should it be calculated. The fact that after so many years we have not been able to reach a consensus on what this expression means proves its difficulty. It was even raised that Infrastructure Managers might not be in the best position to identify what the market can bear, as they do not provide services to passengers and shippers. They might not have enough information regarding elasticity of demand.

For this reason, Infrastructure Managers advocated for a “two-way transparency” obligation. In the same way they are to be transparent with all Railway Undertakings, Railway Operators should also be transparent enough in relation to cost elasticity information.

Harmonization of track access charges is therefore a difficult task. IMs receiving more subsidies can afford to have low track access charges, while IMs with low subsidies consider to be forced as a matter of “survival” to establish higher charges. Despite the difficulty, there was strong consensus among participants that a lot of progress had already been

made through the harmonization of network statements and the definition of a common framework for track access charges.

During the Forum, a high-level discussion took place regarding the meaning of harmonization itself. What do we really mean when we talk about harmonizing track access charges? In the view of many stakeholders, harmonization means trying to agree in the definition of each market segment rather than in the level of track access charges itself. For example, the meaning of “night” can vary substantially depending on the country. So, the focus must be put in harmonizing the concept and finding a common definition of the market segment in order to find commercial solutions.

Another issue derived from track access regulation in Directive 2012/34 is the risk of “smart track access charges” creating a complex system. Adding incentives enables sophistication but at the same time it can lead to a scenario of overaccumulation of incentives.

Finally, in contradistinction to all the aforementioned suggestions, it was suggested that it might be necessary to get back to basics. According to Directive 2012/34 mark-ups are not a tool to be used by Infrastructure Managers so as to fill the gap between state funding and costs. Instead, they are an exceptional tool (subject to a number of constraints) to be used only in exceptional circumstances, and never in a way which could create a barrier to entry the market. Guidelines might be necessary in order to remind and refine the principles in the existing legislation.

Capacity planning: Formalizing dialogue for capacity planning and allocation

A comment by José Estrada,
General Director for Traffic and Capacity
Management at Adif.

Railway capacity planning plays a pivotal role in the quest for a more efficient and sustainable transportation system in the European Union. Aligned with the objectives of the EU's sustainable and smart mobility strategy, there is a crucial need to formalize dialogue and coordination among Infrastructure Managers (IMs), Railway Undertakings (RUs), as well as Regulatory Bodies and other stakeholders. The 23rd Florence Rail Forum brought together various stakeholders in the railway sector to discuss how to enhance railway capacity management in the EU.

Currently, Spain is experiencing a period of significant changes in the sector, driven by the liberalization of passenger railway traffic. This process has had a positive impact on the lives of our citizens, and its success can be largely attributed to the collaboration of the entire railway sector, including an proactive infrastructure manager, railway undertakings, and regulator, all working collectively towards a common objective. The most obvious proof of it is the increase in the number of passengers on all three competitive corridors, and particularly in the Madrid-East corridor: 73% more users in 2023 than in 2019, before the liberalization and the pandemic period.

The key to this success is based on the capacity optimization process. This was made possible while maintaining the existing services and, at the same time, generating sufficient additional capacity to meet the needs of the new railway companies. To enable this process, objective, transparent, and non-discriminatory rules were implemented, and a framework capacity statement was created. Thanks to this and our understanding of market needs, we have succeeded in helping railway companies reduce their costs during the capacity allocation process. Reduced turnarounds times at terminals, high service frequency for all railway companies, and an intensive use of rolling stock, have been crucial.

The key to this success is, undoubtedly, a close communication between the infrastructure manager and railway companies.

A crucial aspect in the interaction between the infrastructure manager and railway undertakings is the framework capacity declaration set by Adif and its allocation process. This process includes several stages including reflection, market feedback, consultation on rules, available capacity and rules statement, capacity requests, allocation and coordination of framework agreements and working timetable process.

Transparency towards the railway undertakings concerning capacity strategies for the coming years has also been key. In addition to framework capacity declarations, details of available capacities are provided quarterly for the entire network, both on different network lines and major high-speed stations.

One of the most relevant aspects of our communication with railway companies are temporary capacity restrictions. Adif is carrying out works in a significant number of railway sections due to the need to expand capacity to accommodate the increased traffic. A large portion of these works are financed through European funds from the post-pandemic Recovery and Resilience Facility, a funding instrument with a very tight schedule that forces Adif to work simultaneously in several spots. To ensure a clear understanding of these restrictions, we regularly provide information about the main works through a map.

In order to address the impact of these works, ADIF is promoting a new system to compensate freight railway companies for costs incurred during these infrastructure projects. This system addresses three disruption scenarios: train cancellations, rerouting, and load restrictions, particularly when infrastructure projects significantly affect freight traffic.

The aim of this system is to balance the revenues, economies, costs, and extra expenses of railway undertakings. While the long-term goal is for ADIF to provide compensation directly, in the interim, it's being proposed as state aid to support freight traffic programs due to ongoing national legislative processes. This system has received unanimous support from all stakeholders in the Spanish railway

sector, including the Ministry, railway companies, regulator and the Council of State, but still needs to be confirmed by the European Commission. Given the extensive ongoing infrastructure projects, quick approval of the compensation system is crucial to effectively foster freight traffic.

Overall, we are living exciting times for railways in Spain, where collaboration and capacity optimization are key to our continuous success. We need the support of the authorities to overcome challenges such as temporary capacity restrictions and ensure a sustainable future for railway transportation in our country. The road ahead is promising, and all stakeholders must continue working together to drive forward the Spanish railway industry.

Market dialogue

A comment by Sebastian Carek,
Senior Project Manager, Forum Train Europe.

The European Commission has recently published a proposal for the Regulation on the use of railway infrastructure capacity. This initiative, inspired by the sector programme TTR, aims to introduce measures to better manage, coordinate and thereby increase the capacity of railways.

In general, the draft regulation consists of many elements that would definitely bring the sector forward to the single European railway area. Nevertheless, it also triggered debates when it comes to the reflection of customer needs, production costs and competitiveness.

The new system gives infrastructure managers (IMs) a more active role in the capacity pre-planning. The IMs are designing capacities and publishing capacity products, which have to be followed by the Railway Undertakings (RUs). If this would be the future, then it has to be ensured that the IMs design coordinated and high-quality capacity that fits the market needs and flexibly adapts to unexpected changes (such as war, pandemic, change in logistic flows, change in passenger habits).

The Regulation aims to secure the market reflection in the IMs' work via a system of 12 types of consultations taking place annually or more often. Nonetheless, it is the IM who does always the first step, and capacity applicants are left only with reactive action. This goes hand in hand with the risk of only limited adaptations of IM-plans possible, after the IM already invested effort in the initial proposal, potentially including cross-border alignment with other IMs. In the end, the RUs might be left with the proposed binding capacities (take or leave).

It has to be added that the RUs perceive the capacity products not in an isolated way, their production concepts are built on a combination of commercial and technical paths and also slots in service facilities. A single part not being compatible with the IMs' plan can make the whole service unprofitable. Moreover, the RUs, not IMs, are the entities that are in touch with the customers or design the transport services at their own commercial risk. Building

the strategic planning on the active market input is absolutely necessary, otherwise, the new system might give a little bit more capacity, but on the other hand, create rigidity and drops the flexibility and competitiveness of railways.

The discussion in the Florence Forum underlined not only the need for market input in capacity planning but also for follow-up iterative dialogue between IMs and RUs. The recent pilots and initiatives demonstrated that a higher level of transparency is needed. A black-box process, where is not clear how the input is considered in the capacity planning, has to be avoided. The strategic planning is a unique opportunity to detect capacity shortages earlier than today. We can get a good chance to overcome the capacity conflicts by looking for alternatives with the respective capacity applicants and launching mitigating measures on the IM side. The IMs can take the role of coordinator, helping the stakeholders to find compromises. But IMs shall not decide themselves (in a black-box) how the solutions should look like. If that becomes the reality, the regulation will maybe bring better capacity management, but not change the modal split, which has been actually the original and real goal of the Greening package.

Socio-economic priority criteria in capacity allocation from a regulatory body's perspective

A comment by Anna Westerberg, Transportstyrelsen, the Swedish regulatory body.

Sweden has a long experience of using socio-economic priority criteria within the capacity allocation processes. These criteria serve as the conclusive step in the resolution of conflicts arising between two or more operators competing for access to the same railway line at the same time. In cases where conflicts persist beyond the annual timetable coordination and consultation process, the infrastructure manager Trafikverket declares the infrastructure as congested and subsequently allocates capacity based on established priority criteria. These criteria are made publicly available in Trafikverket's network statement.

The assessment of capacity allocation through socio-economic priority criteria remains a relatively unexplored domain, with experiences beyond Sweden being notably limited. The application of these criteria in Sweden has demonstrated notable success in mitigating conflicts between diverse train paths, underpinned by robust principles. Nevertheless, there is a need for further refinement. Achieving the objective of socio-economic criteria will require sustained development efforts. It is of importance that these criteria and their underlying models are firmly grounded in accepted methodologies and the best available knowledge.

In considering the advancement of the use of priority criteria, several key considerations arise:

- The current lack of optimisation, wherein priority criteria are applied only in a few cases and at a late stage in the annual allocation process.
- The real value attributed to various train paths.
- The potential requirement for differentiated treatment across different market segments.
- The valuation of temporary capacity restrictions.

In 2019, IRG-Rail published an overview of current rules and practices concerning congested infrastructure, priority criteria and capacity charges in Europe.¹ In sum, the directive 2012/34/EU allows flexibility for national legislators and infrastructure manager to establish priority criteria, resulting in varying approaches across countries. Commonly used methods include prioritizing specific types of train services, particularly those under PSO contracts and international services. Priority may also be based on factors like train path characteristics. Other approaches include models like the Swedish social cost-benefit model and the decision criteria employed in the United Kingdom. Additionally, while the directive 2012/34/EU states that priority should only be granted in cases of congestion or specialized infrastructure, in practice criteria influence scheduling and coordination even outside these conditions. This can occur through formal priorities or informal influence on allocation processes.

In 2023 Forum Train Europe (FTE) and RailNetEurope (RNE) have commissioned the Research Institute of Sweden (RISE) and the Swedish National Road and Transport Research Institute (VTI) to examine socio-economic criteria within the allocation process. The final report is anticipated to be published in the end of 2024.

In the proposed framework for the use of railway infrastructure capacity in the single European railway area, the European Commission advocates for a broader incorporation of socio-economic and environmental criteria. This shift places substantial emphasis on the use of priority criteria, ensuring that all types of rail transport are being equitable considered. The importance of the criteria increases in the new proposal, which highlights the need of refining them within accepted methodologies and leveraging the best available knowledge.

Drawing upon Sweden's extensive experience, we have found the application of socio-economic priority criteria to be a valuable approach in conflict resolution, which provides positive incentives for coordination and consultation. These insights are pivotal in informing the further development of priority criteria. Furthermore, we are all looking at boosting

1 IRG-Rail paper 2019:4

both passenger rail and rail freight traffic in Europe, aligning with the objectives outlined in the European Green Deal. In pursuit of this, we recognize the critical importance of integrating socio-economic and environmental criteria, underscoring Sweden's considerable proficiency in the development and use of these criteria.

FSR Transport

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The FSR-Transport Area's main activities are the European Transport Regulation Forums, which address policy and regulatory topics in different transport sectors. They bring relevant stakeholders together to analyse and reflect upon the latest developments and important regulatory issues in the European transport sector. These Forums inspire the comments gathered in this European Transport Regulation Observer. Complete information on our activities can be found online at: fsr.eui.eu

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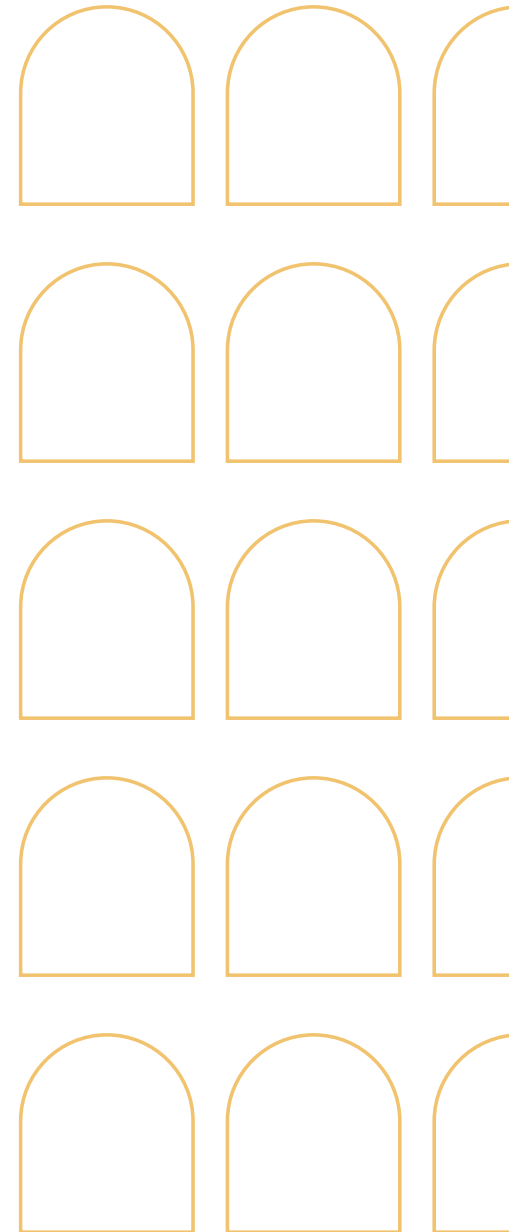
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