



Commercial Conditions – RNE-FTE Common Understanding

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This paper aims to identify items in commercial conditions on which the RU and IM community can largely agree on. It shall serve as a basis for future work in the Impact Assessment and/or the TTR Programme. The approach is to list items that both parties (RUs and IMs) can agree to. Items with disagreement will not be on the list.

Goals: Commercial Conditions shall...

- support a gain of commercially usable capacity.
- support the TTR process.
- support stability on allocated paths.
- follow a European approach in process and timelines.
- steer IMs and RUs towards capacity friendly behaviour.
- reduce the waste of capacity.

Definitions

Capacity waste means:

- Paths are ordered without proper need, allocated and modified after allocation so that other applicants cannot use it sensible
- Paths are ordered without proper need, allocated and cancelled or not used later so that other applicants cannot use it sensible
- Allocated paths are changed after allocation due to impact of TCRs by IM
- Allocated paths are changed after allocation due to impact of TCRs by another IM (on another network)
- An unnecessary number of paths are not allocated or are cancelled by IMs due to bad alignment of several planned TCRs
- Paths are not allocated or are cancelled by IMs due to planned TCRs at times when less or no work is actually happening
- Paths are not allocated or are cancelled by IMs due to planned TCRs that was cancelled
- Paths are not usable (or re-usable) due to the fact that the change was communicated too late (i.e. due to paths being cancelled too late, TCRs cancelled, etc.)

Capacity friendly behaviour means:

- A path concluded is a commitment from both sides RUs/Applicants and IMs, which should be kept, after it has been allocated and accepted
- Ordering the capacity for which there is a market need only when the need is confirmed (RU)
- Give back the capacity as soon the market need changes or other external requirements are known (RU)
- Defining the capacity for TCRs in a way that no more capacity than necessary is blocked – in dialogue between RUs/Applicants and IMs
- Planning the majority of TCRs and their impact to paths before path allocation (IM)
- Reducing TCRs in operational timetable to the minimum and plan their impact to paths/trains as early as possible (IM)

- Having TCR plannings stable - avoiding cancelling TCRs, that would mean double loss of business, as well as massive re-planning of scheduled TCRs, which means high effort in operational planning (IM)

Scope of application: In TTR, Commercial Conditions shall...

- apply in the planning phase, after a path was ordered but latest in the planning phase after a path was allocated and accepted.
- apply for planning (i.e. modifications, alterations, cancellations, withdrawals according to the same timelines) and non-usage of allocated paths (i.e. without cancellation).
- not apply for operations (delays etc.), to avoid overlap with performance regimes.

Desired steering effects for a balanced and effective mechanism

- RUs shall order the capacity when needed
- RUs shall make required changes as early as possible to release capacity for others
- IMs shall ensure lean TCR planning in a way that – taking into account feasibility and economic aspects – no more capacity is blocked than necessary, and make required changes as early as possible to release capacity
- IMs shall plan TCRs and their affected paths as early as possible to avoid changes to customers and production chains
- It shall not lead to RU modification or cancellation being prohibited (and the RU forced to keep capacity the market doesn't need) since marked demands may change and/or RUs need to adapt their production to the market environment
- It shall not lead to forbid IMs to conduct TCRs since IMs' are permanently responsible to ensure safe operations
- Commercial Conditions shall incentivize RUs/Applicants and IMs alike to capacity friendly behaviour. Similar issues or behaviours (modification/alteration, suppression/cancellation, non-usage) must be addressed by using either financial incentives or non-financial incentives for both parties. Commercial Conditions need to be designed for steering the IMs' behaviour and the RUs'/Applicants' behaviour effectively.

Clarifications

- Commercial Conditions are an incentive to improve behaviour.
- Commercial Conditions are not meant to make profit or cover costs of the receiving party.
- Principles and timelines for Commercial Conditions shall be aligned across Europe.
- Fee levels / price tags do not need to be aligned.
- Every change of a train / path can be a damage for the market and shall be incentivized.
- Force Majeure should be excluded from the scope of Commercial Conditions. A description of "Force Majeure" is needed, but will not be defined in the context of Commercial Conditions (can be according to national law, transparently beforehand to avoid different interpretations, leading to cherry-picking).

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- Commercial Conditions shall not prohibit required changes of paths or additional (urgent) TCRs. These shall however be planned and communicated as early as possible.
- RUs/Applicants and IMs are the parties having the path contract and thus are concerned with Commercial Conditions. Therefore the sector should target those stakeholders with Commercial Conditions. Common requests for improvements to other stakeholders (Ministries, PSO authorities, freight forwarders) can be raised on the basis of the acquired knowledge.
- Use cases in the Commercial Conditions subject focus on steering capacity friendly behaviour of plannable scenarios in path allocation. Other subjects (e.g. Force Majeure, Track Access Charges, etc.) should be handled as separate subjects.