



FTE Analysis on the Proposed Capacity Management Regulation

Agreed upon by FTE Joint WGs Passenger + Freight + IT

Subject Matter

On 11 July 2023 the European Commission (EC) released the

“Proposal for a Regulation of the European Parliament and of the Council On the use of railway infrastructure capacity in the single European railway area, Amending Directive 2012/34/EU and repealing (EU) No 913/2020”.

Welcoming support from the European Commission to the TTR sector initiative, FTE members analysed the proposal from a business perspective and expect major improvements if below mentioned items are considered.

Helpful items to be kept

1. Provisions for **multiannual capacity agreements** (right to Framework Agreements (FA) A31, multiannual Rolling Planning A33, capacity specifications A26)
2. **Multi-network** capacity rights (A27, A28) requiring IMs to provide services to RUs from origin to destination, including cross-border.
3. **Reciprocal Commercial Conditions** (A40), providing IM-incentives to plan changes due to TCRs well ahead. Helpful that these charges are set by RB.
4. Requirements for IMs to **update strategic planning** when market changes occur (A12)
5. **Cooperation of IMs and Service Facilities** (A29)
6. **Independent Performance Review** body (A49-A52)
7. Possibilities to request **paths not consistent with pre-planned capacity** (A20(3))
8. Right for RUs to get all capacity management done at one place, and **obligation to IMs to cooperate** (A27)
9. **Digitalisation** shall be to benefit RUs, avoiding multiple same data entry (A62)

Helpful items requiring smaller, but relevant adaptations

10. **Rolling Planning** (A33) facilitating major TTR goals should be clarified so that its safeguarded capacity keeps quality but is flexible, making other requests possible.
11. The EC right to adopt **implementing/delegated acts** should be accompanied with sector involvement.
12. The **socio-economic criteria**, motivating for common solutions (A8, A37) should be manageable, e.g. with standard representative values instead of case-by-case data.
13. Main text on **TCRs** (A40, A14) should be kept more open with the outlook on rules revision in 2024 (Annex1). Note the provision of having all TCRs in the Supply (helpful but not achievable by IMs in the mid-term).
14. **Framework Agreements should also be international** and not based on strategic planning, as conclusion time for FA come earlier (A31).
15. The limitation of 3x track access charge in **compensation paid by IMs to RUs** should refer to track access charge before any reductions, and not exclude damage compensations.
16. One **IM as contact point** for cross-border traffic should consider connected services.
17. The **definition of multi-network service** currently excludes trains with extra national coaches. It should instead cover any service for which capacity is requested across network borders.

Critical items that should be amended

18. Provisions supporting **active RU input** into strategic planning (Capacity Needs Announcements, RU-IM dialogue) need to be added, to avoid the high risk of IMs creating capacity not in line with market.
19. The **right for IMs to refuse requests not in line with the Capacity Supply needs to be deleted** (A32(5), A33(4)). A simple refusal would lead to certain traffic being excluded upfront, due to plans made when this transport need was not known. Instead, IMs should do the effort in dialogue with the RU of identifying alternative, incl. consensual conflict resolution (A36).
20. A legal base for **RU and Service Facility Advisory Groups** needs to be added, these would otherwise disappear with 913/2010, lacking coordinated channels from stakeholders.
21. **RB supervision is required also on the EU Level, towards the Network Coordinator and ENIM.** These have large impact on RUs' business, but now provisions limit ENRRB only to recommendation and opinion.
22. With improvements needed now, **provisions** not related to the full TTR process **should be implemented earlier** than timetable 2030 (A77):
 - a. Capacity rights/methods of capacity allocation (A26, A27)
 - b. Coordination of multi-network capacity rights (A28)
 - c. Capacity allocation through Framework Agreements (A31)
 - d. Provisions on planning traffic affected by TCR (A35)
 - e. Consensual conflict resolution mechanism (A36)
 - f. Changes to capacity rights after allocation (A39)
 - g. Compensation for changes to capacity rights (A40)
23. **Multi-annual financing of IMs shall be obligatory for EU states**, helping IMs to plan TCR in due time.
24. **National ways when RBs** check offers should be avoided or aligned (A36). Otherwise national patchworks continue.