



Access to the EU rail market: transparency and new entrants

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Outline

1. *Legal basis and objectives of the EU rail policy*
2. *EU rules ensuring transparency in the market and access for new entrants*
3. *Enforcement in the EU Member States*



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1. Legal basis and objectives

Legal basis:

- Treaty on the Functioning of the European Union: Title VI on a common transport policy
- Secondary legislation applying to rail transport, in particular on market access
- Also relevant: EU competition rules

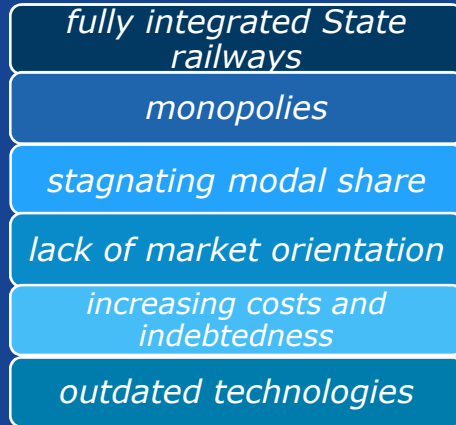
Objectives:

sustainable, safe, affordable and accessible transport



Challenges for EU rail market

Where we were...



Policy actions

Where we want to be

Single European
Railway Area



Competitive, attractive railways





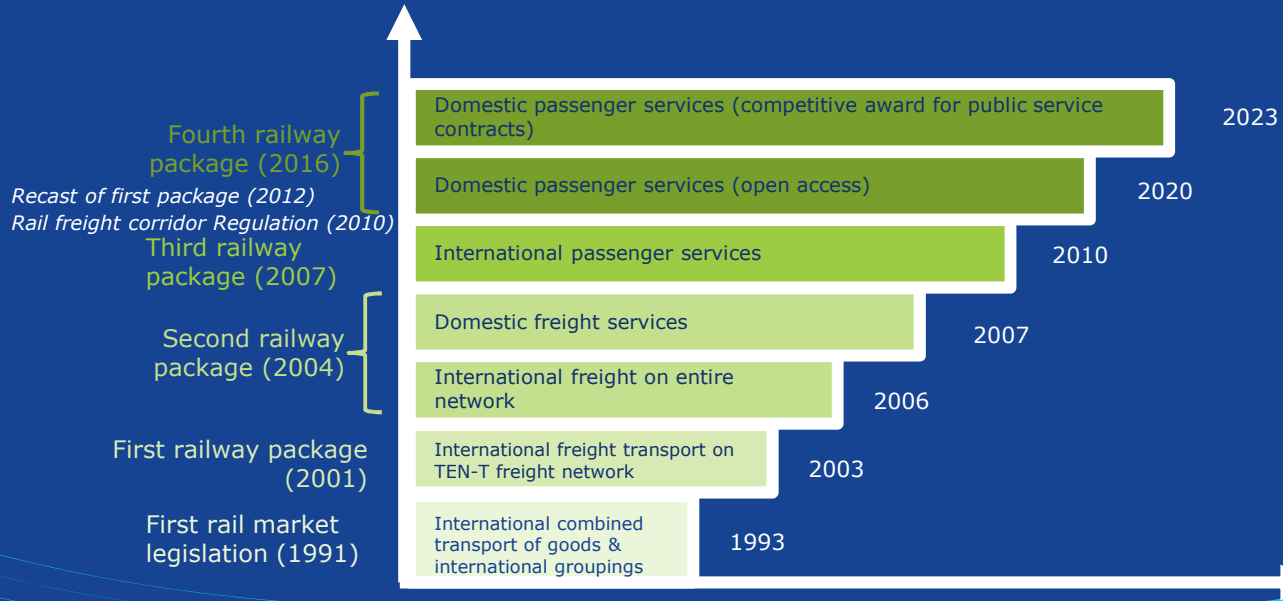
EU rail market: why the legislative effort?

- **Single market** logic –reaping the benefits of competition and growing the pie
- **Modal shift** paradigm – promote climate-friendly modes of transport
- **Boost attractiveness of rail**





Gradual Opening Up Of Markets To Competition





Gradual Opening Up Of Markets To Competition

Directive 2012/34/EU (Recast) establishing a single European railway area:

- increasing quality through stimulating competition
- strengthening market supervision
- improving conditions for investment in the sector

4th railway package (market pillar):

Governance Directive 2016/2370 amending the Recast:

- market opening for domestic passenger transport services
- improving governance of railway infrastructure

PSO Regulation 1370/2007 amended:

- mandatory tendering for public service contracts in rail





2. EU rules ensuring transparency in the market and access for new entrants

(Directive 2012/34, as amended)



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Increased quality through competition

Greater transparency as regards the conditions of access to the rail market:

- operating licences
- levying of charges
- capacity allocation
- network statement
- applicants informed / consulted



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Increased quality through competition

Improved access for operators to service facilities and rail-related services such as:

- railway stations
- freight terminals
- maintenance facilities



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Governance of infrastructure managers (IMs)

MS may choose between different organisational models, ranging from full structural separation to vertical integration

- but subject to appropriate safeguards to ensure the **independence of the IM as regards essential functions, traffic management and maintenance planning**

When infrastructure is operated by railway companies that have **historically had a dominant position** on the market, the IM must:

- be **independent** in terms of organisation and decision-making; and
- have **separate accounting systems**.



Domestic passenger services

All railway companies have **equal access to tracks and stations**

Exception: when one or more **public service contracts** cover the same route or an alternative route, if exercising this right were to compromise the **economic equilibrium** of these contracts would be compromised (cf. economic equilibrium test)



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Regulatory control

Independence of national Regulatory Bodies (RBs) that oversee the national rail market

RB to monitor:

- independence requirements for IMs
- financial flows within vertically integrated undertakings
- traffic management
- renewal planning, scheduled and unscheduled maintenance

Applicants: right to appeal to RB if unfairly treated



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3. Enforcement in the EU Member States

Enforcement = Commission priority (full and correct transposition of EU directives into domestic law)

2016 Governance Directive:

- transposition deadline: December 2018
- in-depth review of the notified measures on-going
- assistance to MS in managing the transition

Infringement procedure: Commission may take legal action against an EU MS that fails to implement EU law, and ultimately refer the issue to the European Court of Justice.



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Useful links

Directive 2012/34/EU and all related amending, delegated and implementing acts can be found at:

<https://eur-lex.europa.eu/legal-content/EN/LSU/?uri=celex:32012L0034>



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