III

(Preparatory acts)

COMMITTEE OF THE REGIONS

103RD PLENARY SESSION HELD ON 7-9 OCTOBER 2013

Opinion of the Committee of the Regions — The fourth railway package

(2013/C 356/16)

THE COMMITTEE OF THE REGIONS

— welcomes the European Commission's willingness to complete the regulatory framework needed to achieve a single European railway area;

— does not view liberalisation as an end in itself: the purpose should be to improve the range and quality of services. The opening up to competition cannot be assessed without also taking investment in infrastructure, real market operating conditions and the technical aspects of interoperability into consideration;

— points out that the principle of free administration enables local authorities to decide how they want to organise their public transport services; sees the introduction of ceilings for direct award which are too low as a dramatic limitation of the principle of local and regional authority free administration;

— welcomes the stronger role for infrastructure managers and the introduction of coordination committees that will supervise the activity of the reinforced infrastructure managers and ensure the efficiency of the entire system. Local authorities must be automatically involved, not only 'if appropriate';

— urges that a European network of infrastructure managers, which is crucial to the operation of a single European railway area and to cross-border coordination, be set up rapidly;

— supports a stronger role for the European Railway Agency with the aim of supporting technical interoperability and harmonisation of 'safety' procedures, in order to avoid the major problems resulting from divergences between 26 national authorities.

Rapporteur	Pascal MANGIN (FR/EPP), Member of Alsace Regional Council
Reference documents	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on 'The Fourth Railway Package — completing the Single European Railway Area to foster European competitiveness and growth' COM(2013) 25 final; Proposal for a Regulation of the European Parliament and of the Council repealing Regulation (EEC) No 1192/69 of the Council on common rules for the normalisation of the accounts of railway undertakings COM(2013) 26 final; Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 COM(2013) 27 final; Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail COM(2013) 28 final; Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure COM(2013) 29 final; Proposal for a Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (Recast) COM(2013) 30 final; Proposal for a Directive of the European Parliament and of the Council on railway safety (Recast) COM(2013) 31 final; Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the progress made towards achieving interoperability of the rail system COM(2013) 32 final; Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the profile and tasks of other train crew members COM(2013) 33 final; Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation of the provisions of Directive 2007/58/EC on the opening of the market of international rail passenger transport accompanying the Commission Communication on the fourth Railway Package COM(2013) 34 final.

I. POLICY RECOMMENDATIONS

A. *Public service obligations*

THE COMMITTEE OF THE REGIONS

General comments

1. welcomes the European Commission's willingness to complete the regulatory framework needed to achieve a single European railway area;

2. refers to its view — repeatedly expressed, for example in connection with 'greening the transport sector' — that one of the main objectives of European transport policy is to transfer goods and passenger traffic, particularly cross-border goods and heavy goods traffic, from the roads to rail, as the most environment-friendly mode, and that the EU must ensure that this objective is achieved by means of appropriate measures, if sufficient free capacity is available for this;

3. does not view liberalisation as an end in itself: the purpose should be to improve the range and quality of services. The opening up to competition cannot be assessed without also taking investment in infrastructure, real market operating conditions and the technical aspects of interoperability into consideration;

4. wishes to take a holistic approach combining proportionality, subsidiarity and market supervision by a robust regulator. The Committee of the Regions is in favour of the public service proportionality conditions introduced by the Commission and of supervision by regulators of how commercial and public services connect to each other;

5. trusts that local and regional authorities will be fully involved in preparing and implementing rail policy measures having a direct impact on users and the relevant authorities themselves;

6. considers that more effective rail systems and, in particular, public service contracts are good for local and regional authorities, given the tight budgetary and financial constraints placed on them;

7. points out that the principle of free administration enables local authorities to decide how they want to organise their public transport services. In this regard, Article 5.2 must not be called into question because it allows an internal operator to be used; sees the introduction of ceilings for direct award which are too low as a dramatic limitation of the principle of local and regional authority free administration;

8. emphasises that public transport must be affordable;

The regulatory framework

Public transport plans

9. calls for public transport plans to provide operators and users of all modes of transport with adequate visibility and safety, in order to facilitate intermodality. They must take account of social and territorial cohesion issues and of sustainable development;

10. supports the European Commission's call for transport plans to cover all modes of transport. It must be possible for the local authorities responsible to adjust them, as changes in circumstances of various kinds can affect them. Effective cross-border cooperation between the relevant authorities must also be fostered and guaranteed, for example through EGTCs, so that they can coordinate their transport plans for the different modes;

11. calls for the obligations imposed on local authorities in connection with the implementation of transport plans not to entail excessive organisational or financial burdens;

Social dimension

12. welcomes the references made to the social dimension. They must however be made more specific in order to minimise the risk of social dumping. On the other hand, they must not place obstacles in the path of greater competitiveness in the rail sector, and should encourage multiskilling among personnel;

Provider selection methods

13. notes that the award of contracts by competitive tendering may, in certain circumstances, generate efficiency gains and savings for the relevant authorities, for equivalent or even better service provision;

14. calls, however, for local authorities to retain the option of choosing between competitive tendering (partially or fully opening up the public service contract), direct labour contracts and direct award. In order to prevent monopolistic tendencies, direct award must be more strictly regulated, in particular in accordance with provision quality criteria and

not price alone. The challenge for the organising authorities will be to achieve price transparency regarding the services provided, by means of market contestability;

15. stresses that a flexible approach to the choice of transport operator by the competent local authorities, including regions, should take account of the degree of development of the regional transport market in individual Member States;

16. has doubts about how real the opening up to competition is when some calls for tender involve very little competition; calls on the Commission to clarify the criteria for the genuine introduction of competition, based in particular on the administrative costs of responding to calls for tender or the duration of the contracts offered by the competent authorities;

17. emphasises that rail operators providing a public service must also be responsible for the accuracy of the information provided under the tendering procedure for the renewal or transfer of the contract, within the bounds of business confidentiality;

Access to the rolling stock market

18. recognises that acquisition of rolling stock can act as a barrier to entry;

19. would not rule out any method of guaranteeing cover of the residual value of rolling stock;

State Aid

20. points out that the Parliament and the Council have already made it clear that they would reject removal of Article 9 of the current regulation;

21. agrees with the Parliament and the Council in opposing mandatory, systematic notification of all contributions to public transport services, given the specific features of the transport sector;

B. ***Opening up of the markets and governance***

22. believes that, once an open and level playing field for European rail undertakings and the absence of distortion of competition on the market are strictly ensured, Member States should enjoy a certain amount of freedom to organise and develop their rail system according to the separation model or the integrated undertakings model;

23. welcomes the stronger role for infrastructure managers with a view to rationalising the rail system. Infrastructure managers must provide a one-stop shop for access to the network, particularly with regard to the organising authorities. Their management or supervisory boards must therefore include a group of representatives of the regional organising authorities;

24. warmly welcomes the introduction of coordination committees that will supervise the activity of the reinforced infrastructure managers and ensure the efficiency of the entire system. Local authorities must be automatically involved, not only 'if appropriate';

25. urges that contact people be appointed among the infrastructure managers for relations with local and regional authorities;

26. points to the mandatory application of the principles of proportionality and subsidiarity, particularly when the Commission wishes to assume new decision-making powers;

27. urges that a European network of infrastructure managers, which is crucial to the operation of a single European railway area and to cross-border coordination, be set up rapidly;

28. stresses that station managers must be responsible to local and regional authorities. Stations play an important role in making a region attractive;

29. notes that liberalisation is not an end in itself: the purpose should be to improve the range and quality of services. Experience of opening up interurban passenger rail markets to competition remains, however, too limited in Europe. This should be encouraged, while safeguarding public services by applying the concept of compromising the economic equilibrium of such services;

30. stresses the need to maintain the current rules which allow firms acting as infrastructure managers and operators providing local services on specific small-scale rail infrastructure to continue their activities under the existing conditions. Such local infrastructure should not exceed 150 km;

31. welcomes the references made to the social dimension. They must however be made more specific in order to minimise the risk of social dumping. On the other hand, they must not place obstacles in the path of greater competitiveness in the rail sector, and should encourage multiskilling among personnel;

32. supports stronger powers for regulatory bodies and encourages them to cooperate at European level, especially in assessing compromise of economic equilibrium in a service. Local and regional authorities must also be given reasonable deadlines for referring to regulatory bodies when they have concerns about the maintenance of an equilibrium;

33. points out that ticketing is an integral part of opening up the market. More effective cooperation between railway companies and with the relevant local and regional authorities is necessary in this area;

34. considers that the requirement for companies operating national systems to join in a national information system for supply and ticketing (intermodal) should be made mandatory, since the development of associated services is a major factor in boosting the attractiveness of public transport, rail in particular;

C. ***Technical aspect***

35. agrees with the Commission's description of the main problems and constraints of the current European legislative framework in the technical field;

36. supports a stronger role for the European Railway Agency based in Valenciennes, with the aim of supporting technical interoperability and harmonisation of 'safety' procedures, speeding up the introduction of a single authorisation for placing vehicles in service and strengthening the ERA's powers in order to avoid the major problems resulting from divergences between 26 national authorities. Vehicles that are only to be used within a country could continue to be authorised by national safety authorities;

37. calls however for a transitional period to be envisaged before the ERA is fully operational with regard to its new tasks;

38. supports the Commission's objective of reducing the number of national rules by removing those that are redundant or contrary to EU law and to the technical specifications for interoperability;

39. welcomes certain of the Commission's proposals on the role of the ERA and the establishment within it of an appeals body. The Commission is proposing to strengthen the ERA's role and to make it a one-stop shop for decisions on vehicles and safety certificates for railway companies. Reinforcement and clarification of the Agency's powers, its resources (financial and human) and its responsibility are therefore necessary. The same applies to the appeals body;

40. calls for the Committee of the Regions to be involved in drawing up the ERA's programmes;

41. urges that the cost-benefit analyses of interoperability measures not be overlooked, with a particular focus on their impact for local and regional authorities.

II. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

COM(2013) 28 final

New Recital after Recital 9

Text proposed by the Commission	CoR amendment
	The reciprocity principle is an important means to counter distortion of competition; it should be applied to third-country businesses that wish to take part in tenders within the Union.

Reason

Third countries should not be given the opportunity to take part in tenders in EU countries unless they have opened their own markets to EU Member States.

Amendment 2

COM(2013) 28 final

Recital 15

Text proposed by the Commission	CoR amendment
Preparing railway undertakings for mandatory competitive tendering for public service contracts requires some extra time to allow effective and sustainable internal restructuring of companies to which such contracts were directly awarded in the past. Transitional measures are therefore necessary for contracts directly awarded between the date of entry into force of this Regulation and 3 December 2019.	Preparing railway undertakings for ~~mandatory~~ competitive tendering for public service contracts requires some extra time to allow effective and sustainable internal restructuring of companies to which such contracts were directly awarded in the past. Transitional measures are therefore necessary for contracts directly awarded between the date of entry into force of this Regulation and 3 December 2019.

Amendment 3

COM(2013) 28 final

Recital 18

Text proposed by the Commission	CoR amendment
18. In the context of amendments to the Regulation (EC) No 994/98 (Enabling Regulation), the Commission proposed also an amendment of Regulation (EC) No 1370/2007 (COM(2012) 730/3). In order to harmonize the approach to block exemption regulations in the field of State aid and, in accordance with the procedures foreseen in Articles 108(4) and 109 of the Treaty, aid for the coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service as referred to Article 93 of the Treaty should be brought under the scope of the Enabling Regulation.	~~18. In the context of amendments to the Regulation (EC) No 994/98 (Enabling Regulation), the Commission proposed also an amendment of Regulation (EC) No 1370/2007 (COM(2012) 730/3). In order to harmonize the approach to block exemption regulations in the field of State aid and, in accordance with the procedures foreseen in Articles 108(4) and 109 of the Treaty, aid for the coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service as referred to Article 93 of the Treaty should be brought under the scope of the Enabling Regulation.~~

Reason

Referring to another text for the principle of exemption from the obligation to notify compensations would change the entire structure of the PSO Regulation and would present public passenger transport services with a serious risk of legal uncertainty.

Amendment 4

COM(2013) 28 final

Article 2, point (c)

Text proposed by the Commission	CoR amendment
c) 'competent local authority' means any competent authority whose geographical area of competence is not national and which covers the transport needs of an urban agglomeration or a rural district;	c) 'competent local authority' means any competent authority whose geographical area of competence ~~is not national~~ does not cover the entire territory of a Member State or ~~and~~ which covers the transport needs of a~~n~~ region or urban agglomeration or a rural district, including at cross-border level;

Reason

'Is not national' could have two meanings: not covering the entire territory of a Member State, or a competent local authority which may have its territory in two or more Member States. The definition must be clarified in order to keep step with the emergence of organising authorities with cross-border powers.

In addition, regions must be unambiguously covered by the present regulation.

Amendment 5

COM(2013) 28 final

Article 2, point (e)

Text proposed by the Commission	CoR amendment
e) The scope of public service obligations shall exclude all public transport services that go beyond of what is necessary to reap local, regional or sub-national network effects.	~~e) The scope of public service obligations shall exclude all public transport services that go beyond of what is necessary to reap local, regional or sub-national network effects.~~ (e) The scope of public service obligations shall include all public transport services that produce local, regional or sub-national network effects; these effects may result from combining profitable and unprofitable routes.

Reason

If a regional transport route breaks even or makes a profit, it should be possible to include it in a public service contract with other loss-making routes so that the profits of the former can help to finance the latter, and a solution optimising the technical means needed for operation can be found, where necessary.

Amendment 6

COM(2013) 28 final

Article 2a(1)

Text proposed by the Commission	CoR amendment
1. Competent authorities shall establish and regularly update public passenger transport plans covering all relevant transport modes for the territory for which they are responsible.	1. Competent authorities shall establish and regularly update public passenger transport plans covering all relevant transport modes for the territory for which they are responsible. These obligations shall apply only to agglomerations of more than 100 000 inhabitants.
These public transport plans shall define the objectives of public transport policy and the means to implement them covering all relevant transport modes for the territory for which they are responsible. They shall at least include:	These public transport plans shall define the objectives of public transport policy and the means to implement them covering all relevant transport modes for the territory for which they are responsible. They shall at least include:
(a) the structure of the network or routes;	(a) the structure of the network or routes;
(b) basic requirements to be fulfilled by public transport offer such as accessibility, territorial connectivity, security, modal and intermodal interconnections at main connecting hubs, offer characteristics such as times of operation, frequency of services and minimum degree of capacity utilisation;	(b) basic requirements to be fulfilled by public transport offer such as accessibility, territorial connectivity, security, modal and intermodal interconnections at main connecting hubs, offer characteristics such as the principles governing timetabling~~times of operation,~~ and frequency of services ~~and minimum degree of capacity utilisation~~;

Text proposed by the Commission	CoR amendment
(c) quality standards related to items such as equipment features of stops and of rolling stock, punctuality and reliability, cleanliness, customer service and information, complaint handling and redress, monitoring of service quality;	(c) quality standards related to items such as equipment features of stops and of rolling stock, punctuality and reliability, cleanliness, customer service and information, complaint handling and redress, monitoring of service quality;
(d) principles of tariff policy;	(d) principles of tariff policy;
(e) operational requirements such as transport of bicycles, traffic management, contingency plan in case of disturbances.	(e) operational requirements such as transport of bicycles, traffic management, contingency plan in case of disturbances.;
	(f) social and territorial cohesion requirements.
In establishing public transport plans, competent authorities shall have regard in particular to applicable rules regarding passenger rights, social, employment and environmental protection.	In establishing public transport plans, competent authorities shall have regard in particular to applicable rules regarding passenger rights, social, employment and environmental protection in order to prevent dumping in these areas.
	Public transport plans must be submitted to the regulatory body for consultation only, one month before publication.
	The competent authorities shall cooperate in coordinating the information contained in their respective public transport plans, and shall draw up common transport plans for cross-border regional transport services.
The competent authorities shall adopt the public transport plans after consultation of relevant stakeholders and publish them. For the purpose of this Regulation, relevant stakeholders to be taken into consideration are at least transport operators, infrastructure managers if appropriate, and representative passenger and employee organisations.	The competent authorities shall adopt the public transport plans after consultation of relevant stakeholders and publish them. For the purpose of this Regulation, relevant stakeholders to be taken into consideration are at least transport operators, infrastructure managers if appropriate, and representative passenger and employee organisations.
	Previous or present public service providers shall be required to provide the competent authorities with the necessary data within one month following the request from such authorities, even if they are authorities of a neighbouring Member State.

Reason

Public passenger transport plans can represent heavy extra obligations, but have no effect on mainline trains governed by regional planning agreements. The proposed amendment suggests limiting the obligation to agglomerations of a certain size only.

Given the complexity and volatility (for reasons beyond the control of the competent authorities) of operating timetables, it is more realistic to mention the principles governing timetabling in transport plans.

For little-used lines, a commitment to a minimum degree of capacity utilisation could have a negative impact on the relevant public service and would therefore act against the interests of the competent authority.

Both intermodality and cross-border cooperation should be encouraged.

Public transport plans require accurate data on the market evolution of different transport modes. Market operators are the main source of information and must share data with the public authorities.

Amendment 7

COM(2013) 28 final

Article 2a(4)

Text proposed by the Commission	CoR amendment
The specifications of public service obligations and the related compensation of the net financial effect of public service obligations shall:	The specifications of public service obligations and the related compensation of the net financial effect of public service obligations shall:
(a) achieve the objectives of the public transport plan in the most cost-effective manner;	(a) achieve the objectives of the public transport plan in the most ~~cost~~-effective manner;

Amendment 8

COM(2013) 28 final

Article 4(8)

Text proposed by the Commission	CoR amendment
8. Competent authorities shall make available to all interested parties relevant information for the preparation of an offer under a competitive tender procedure.	8. Competent authorities shall make available to all interested parties relevant information for the preparation of an offer under a competitive tender procedure. The rail infrastructure managers, the railway companies which perform or have performed the public service contract, must help the competent authorities to provide all relevant data. They are responsible for the accuracy of the data supplied to the competent authority.
This shall include information on passenger demand, fares, costs and revenues related to the public passenger transport covered by the tender and details of the infrastructure specifications relevant for the operation of the required vehicles or rolling stock to enable them to draft well informed business plans. Rail infrastructure managers shall support competent authorities in providing all relevant infrastructure specifications.	This shall include information on passenger demand, fares, costs and revenues related to the public passenger transport covered by the tender and details of the infrastructure specifications relevant for the operation of the required vehicles or rolling stock to enable them to draft well informed business plans. Rail infrastructure managers shall support competent authorities in providing all relevant infrastructure specifications.
Non-compliance with the provisions set out above shall be subject to the legal review provided for in Article 5(7).	Non-compliance with the provisions set out above shall be subject to the legal review provided for in Article 5(7).
	The current operator of a line or network which is submitted to competitive tendering must provide the competent authority with the data necessary for the preparation of the tender procedure, free of charge; such data must be full and accurate, particularly regarding demand for travel and income generated by passenger transport, within the bounds of business confidentiality.
	The former operator and the infrastructure manager must compensate other operators for any loss caused by offers made on the basis of incorrect or incomplete data.

Reason

Infrastructure manager data are not sufficient, as they do not include the rail operator's commercial data. Previous and/or current providers — particularly incumbent operators — must supply data in order to ensure non-discriminatory access to information. It is essential to ensure consistency in this way: otherwise competent authorities may be subject to obligations that they cannot fulfil.

Amendment 9

COM(2013) 28 final

Article 5, new paragraph after paragraph 3

Text proposed by the Commission	CoR amendment
	The competent authorities may exclude third-country operators from a competitive tender procedure if these third countries do not provide competitive tender procedures for companies from the EU Member States.

Reason

Third countries should not be given the opportunity to take part in tenders in EU countries unless they have opened their own markets to EU Member States.

Amendment 10

COM(2013) 28 final

Article 5(4)

Text proposed by the Commission	CoR amendment
4. Unless prohibited by national law, the competent authorities may decide to award public service contracts directly	4. Unless prohibited by national law, the competent authorities may decide to award public service contracts directly
(a) where their average annual value is estimated at: less than EUR 1 000 000 or less than EUR 5 000 000 in the case of a public service contract including public transport by rail or,	(a) where their average annual value is estimated at: less than EUR 1 000 000 or less than EUR 5 000 000 in the case of a public service contract including public transport by rail or,
(b) where they concern the annual provision of less than 300 000 kilometres of public passenger transport services or less than 150 000 kilometres in the case of a public service contract including public transport by rail.	(b) where they concern the annual provision of less than 300 000 kilometres of public passenger transport services or less than ~~150 000~~ 500 000 kilometres in the case of a public service contract including public transport by rail.

Reason

The annual 150 000 km by rail threshold proposed by the Commission effectively excludes all rail lines where this mode would be relevant. The 500 000 km threshold allows exceptions to the competitive tendering rule to be restricted to single lines of a relevant length for the rail mode and with a viable service level for the rail mode.

Amendment 11

COM(2013) 28 final

Article 5, new paragraph after paragraph 4

Text proposed by the Commission	CoR amendment
	The decision to award services directly must be transmitted within two months for consultation to the regulatory body defined in Article 55 of Directive 2012/34/EC.

Reason

This new paragraph allows for involvement of the competent regulatory body in the process of organising rail transport, without limiting the powers of the competent local bodies to directly award services to internal providers. At the same time, this paragraph frames the conditions for awarding services directly in such a way as to limit oligopolistic positions.

Amendment 12

COM(2013) 28 final

Article 5, new paragraph after paragraph 6

Text proposed by the Commission	CoR amendment
	Unless prohibited by national law, competent authorities may decide to make direct awards of public service contracts where they concern transport by rail, with the exception of other track-based modes such as metros or trams. In derogation from Article 4(3), such contracts shall not exceed 10 years, except where Article 4(4) applies. However, if the contract has already been awarded directly and service quality indicators fall by more than an average of 10 % over the duration of the contract for reasons within the control of the body providing public services, it shall be subject to competitive tendering upon expiry. Six months after adoption of the present regulation, the European Commission shall define the quality by means of delegated acts, in accordance with a series of performance indicators, including punctuality.

Reason

The option of direct award should be restored, but placing time limits on it. If it does not work satisfactorily, the competent authority must automatically switch back to competitive tendering.

Amendment 13

COM(2013) 28 final

Article 5a(2)

Text proposed by the Commission	CoR amendment
[…]	[…]

Text proposed by the Commission	CoR amendment
The competent authority may comply with the requirement set out in the first subparagraph in one of the following ways:	The competent authority may comply with the requirement set out in the first subparagraph in ~~one of the following ways~~ various ways that facilitate economies of scale, such as:
(a) by acquiring itself the rolling stock used for the execution of the public service contract with a view to making it available to the selected public service operator at market price or as part of the public service contract pursuant to Article 4(1) (b), Article 6 and, if applicable, to the Annex,	(a) by acquiring itself the rolling stock used for the execution of the public service contract with a view to making it available to the selected public service operator at market price or as part of the public service contract pursuant to Article 4(1) (b), Article 6 and, if applicable, to the Annex,
(b) by providing a guarantee for the financing of the rolling stock used for the execution of the public service contract at market price or as part of the public service contract pursuant to Article 4(1)(b), Article 6 and, if applicable, to the Annex. Such a guarantee may cover the residual value risk while respecting the relevant state aid rules when applicable,	(b) by providing a guarantee for the financing of the rolling stock used for the execution of the public service contract at market price or as part of the public service contract pursuant to Article 4(1)(b), Article 6 and, if applicable, to the Annex. Such a guarantee may cover the residual value risk while respecting the relevant state aid rules when applicable,
(c) by committing in the public service contract to take over of the rolling stock at the end of the contract at market price.	(c) by committing in the public service contract to take over of the rolling stock at the end of the contract at market price., (d) by cooperating with neighbouring local authorities in order to create a larger pool of rolling stock, (e) by applying to their Member State for a contribution to one of the methods for covering the residual value of rolling stock.
[…]	[…]

Reason

We should not exclude any local method of financing (e.g. guarantees, take-overs, direct purchase, or others). This does not however mean that governments can shrug off their responsibilities and unduly shift the burden onto local authorities. The legislative and regulatory framework must be such as to stimulate the market for rolling-stock favouring, for example, economies of scale and suitable financial packages.

Amendment 14

COM(2013) 28 final

Article 8(b)2a

Text proposed by the Commission	CoR amendment
2a Public service contracts for public passenger transport by rail directly awarded between 1 January 2013 and 2 December 2019 may continue until their expiry date. However they shall, in any event, not continue after 31 December 2022.	2a Public service contracts for public passenger transport by rail directly awarded between ~~1 January 2013~~ the date on which this regulation enters into force and 2 December 2019 may continue until their expiry date. However they shall, in any event, not continue after 31 December 2022. This shall not apply to contracts entered into before the entry into force of this regulation.

Reason

The date of entry into force of the revised regulation should be the date when the proposed changes enter into force. This provision should not apply to contracts entered into before that date.

Amendment 15

COM(2013) 29 final

Recital 10

Text proposed by the Commission	CoR amendment
The existing requirements of Directive 2012/34/EU only include legal, organisational and decision-making independence. This does not entirely exclude the possibility of maintaining an integrated undertaking, as long as these three categories of independence are ensured. Concerning the decision-making independence it must be ensured that the appropriate safeguards exclude control of an integrated undertaking over the decision-making of an infrastructure manager. However, even the full application of such safeguards does not completely remove all the possibilities for discriminatory behaviour towards competitors which exist in the presence of a vertically integrated undertaking. In particular, the potential for cross-subsidisation still exists in integrated structures, or at least it is very difficult for regulatory bodies to control and enforce safeguards which are established to prevent such cross-subsidisation. An institutional separation of infrastructure management and transport operation is the most effective measure to solve these problems.	The existing requirements of Directive 2012/34/EU only include legal, organisational and decision-making independence. This does not ~~entirely~~ exclude the possibility of maintaining an integrated undertaking, as long as the ~~these three categories of~~ independence of the manager from operators is preserved regarding the essential functions, which are decision-making on train path allocation and on infrastructure charging, stations, investment and maintenance~~are ensured~~. Concerning the decision-making independence it must be ensured that the appropriate safeguards exclude control of an integrated undertaking over the decision-making of an infrastructure manager. ~~However, even the full application of such safeguards does not completely remove all the possibilities for discriminatory behaviour towards competitors which exist in the presence of a vertically integrated undertaking. In particular, the potential for cross-subsidisation still exists in integrated structures, or at least it is very difficult for regulatory bodies to control and enforce safeguards which are established to prevent such cross-subsidisation. An institutional separation of infrastructure management and transport operation is the most effective measure to solve these problems.~~

Reason

The Commission is working on the ideological assumption that a total separation of activities is the best possible solution. This is purely an ideological assumption and has no place in the draft directive, which should remain neutral on this issue.

Amendment 16

COM(2013) 29 final

Article 6(2)

Text proposed by the Commission	CoR amendment
The European Commission proposes deleting Article 6 (2) of Directive 2012/34/EU.	*Keep Article 6 (2) of Directive 2012/34/EU, to read as follows:* In order to avoid disproportionate transaction costs, Member States may provide that this separation shall require the organisation of distinct divisions within a single undertaking, provided that the undertaking in question has fewer than 3 000 employees and that its activities are limited to local transport, over an infrastructure of less than 150 km.

Reason

With regard to the institutional separation of infrastructure management from the operation of transport services, it is recommended that the current rules be retained for companies whose activities are limited to the provision of regional services. It should be realised that, in the case of small entities providing services on specific infrastructure, this institutional separation could mean significant fragmentation of companies and a rise in operating costs, and thus in the compensation paid from public resources.

Amendment 17

COM(2013) 29 final

Article 7(1)

Text proposed by the Commission	CoR amendment
Member States shall ensure that the infrastructure manager performs all the functions referred to in Article 3(2) and is independent from any railway undertaking.	Member States shall ensure that the infrastructure manager performs all the functions referred to in Article 3(2) and is independent from any railway undertaking with respect to essential functions, which are decision-making on train path allocation and on infrastructure charging, stations, investment and maintenance.
To guarantee the independence of the infrastructure manager, Member States shall ensure that infrastructure managers are organised in an entity that is legally distinct from any railway undertaking.	To guarantee the independence of the infrastructure manager, Member States ~~shall ensure that infrastructure managers are organised in an entity that is legally distinct from any railway undertaking.~~ may act as they see fit in accordance with the subsidiarity principle.

Amendment 18

COM(2013) 29 final

Article 7(5)

Text proposed by the Commission	CoR amendment
Where on the date of entry into force of this Directive, the infrastructure manager belongs to a vertically integrated undertaking, Member States may decide not to apply paragraphs 2 to 4 of this Article. In such case, the Member State concerned shall ensure that the infrastructure manager performs all the functions referred to in Article 3(2) and has effective organisational and decision-making independence from any railway undertaking in accordance with the requirements set in Articles 7a to 7c.	~~Where on the date of entry into force of this Directive, the infrastructure manager belongs to a vertically integrated undertaking,~~ The Member States may decide not to apply paragraphs 2 to 4 of this Article. In such case, the Member State concerned shall ensure that the infrastructure manager performs all the functions referred to in Article 3(2) and has effective organisational and decision-making independence from any railway undertaking in accordance with the requirements set in Articles 7a to 7c.

Reason

Allows for a return to an integrated model regardless of the situation when the Directive enters into force.

Amendment 19

COM(2013) 29 final

Article 7b(3)

Text proposed by the Commission	CoR amendment
3. The infrastructure manager shall have a Supervisory Board which is composed of representatives of the ultimate owners of the vertically integrated undertaking.	3. The infrastructure manager shall have a Supervisory Board which is composed of representatives of the ultimate owners of the vertically integrated undertaking and of representatives of the competent local and regional authorities if they are not already members of the infrastructure manager's management board.
[…]	[…]

Reason

Local and regional authorities are fully-fledged actors in the rail system. They must consequently be involved in decision-making bodies or bodies supervising infrastructure managers which have a natural monopoly. They are the link between the operators and the final users, whose needs they know.

Amendment 20

COM(2013) 29 final

Article 7b(5)

Text proposed by the Commission	CoR amendment
5. […] Transfers of staff other than those referred to under point (c) between the infrastructure manager and the other legal entities within the vertically integrated undertaking shall only be possible if it can be ensured that sensitive information will not be passed on between them.	5. […] Transfers of staff other than those referred to under point (c) between the infrastructure manager and the other legal entities within the vertically integrated undertaking shall ~~only~~ be possible.~~if it can be ensured that sensitive information will not be passed on between them~~. The staff concerned will nevertheless be bound by trade secrecy requirements in relation to their previous activities, in accordance with commercial law practice.

Reason

Application of the principle of proportionality: the concept of sensitive information is too vague to prevent internal mobility within rail groups. Periods of absence and other 'Chinese walls' will be enough to ensure that sensitive information does not pass between the different parts of a single rail group. As is normal practice under commercial law, such staff must however be required to comply with commercial confidentiality.

Amendment 21

COM(2013) 29 final

Article 7b, new paragraph after paragraph 7

Text proposed by the Commission	CoR amendment
	The European Commission must, before 1 January 2019, introduce specific provisions for mobile workers in order to prevent wage competition and dumping, and consider the option of specific certification for on-board staff.

Reason

The wage competition and dumping that have taken place in the road and maritime transport sectors must be avoided.

Amendment 22

COM(2013) 29 final

Article 7c

Text proposed by the Commission	CoR amendment
Procedure of verification of compliance	Procedure of verification of compliance
1. Upon request of a Member State or on its own initiative, the Commission shall decide whether infrastructure managers which are part of a vertically integrated undertaking fulfil the requirements of Article 7a and Article 7b	1. Upon request of a Member State or on its own initiative, the Commission shall decide whether infrastructure managers ~~which are part of a vertically integrated undertaking~~ fulfil the requirements of Articles 7, 7a and ~~Article~~

Text proposed by the Commission	CoR amendment
and whether the implementation of these requirements is appropriate to ensure a level playing field for all railway undertakings and the absence of distortion of competition in the relevant market.	7b and whether the implementation of these requirements is appropriate to ensure a level playing field for all railway undertakings and the absence of distortion of competition in the relevant market.
2. The Commission shall be entitled to require all necessary information within a reasonable deadline from the Member State where the vertically integrated undertaking is established. The Commission shall consult the regulatory body or bodies concerned and, if appropriate, the network of regulatory bodies referred to in Article 57.	2. The Commission shall be entitled to require all necessary information within a reasonable deadline from the Member State concerned~~where the vertically integrated undertaking is established~~. The Commission shall consult the regulatory body or bodies concerned, the competent authorities concerned and~~, if appropriate,~~ the network of regulatory bodies referred to in Article 57.
3. Member States may limit the rights of access provided for in Article 10 to railway undertakings which are part of the vertically integrated undertaking to which the infrastructure manager concerned belongs, if the Commission informs Member States that no request has been made in accordance with paragraph 1 or pending the examination of the request by the Commission or if it decides, in accordance with the procedure referred to in Article 62(2), that:	3. Member States may limit the rights of access provided for in Article 10 to railway undertakings ~~which are part of the vertically integrated undertaking to which the infrastructure manager concerned belongs,~~ if the Commission informs Member States that no request has been made in accordance with paragraph 1 or pending the examination of the request by the Commission or if it decides, in accordance with the procedure referred to in Article 62(2), that:
(a) no adequate replies to the Commission information requests in accordance with paragraph 2 have been made, or	(a) no adequate replies to the Commission information requests in accordance with paragraph 2 have been made, or
(b) the infrastructure manager concerned does not fulfil the requirements set out in Articles 7a and 7b, or	(b) the infrastructure manager concerned does not fulfil the requirements set out in Articles 7, 7a and 7b, or
(c) the implementation of requirements set out in Articles 7a and 7b is not sufficient to ensure a level playing field for all railway undertakings and the absence of distortion of competition in the Member State where the infrastructure manager concerned is established.	(c) the implementation of requirements set out in Articles 7, 7a and 7b is not sufficient to ensure a level playing field for all railway undertakings and the absence of distortion of competition in the Member State where the infrastructure manager concerned is established.
The Commission shall decide within a reasonable period of time.	The Commission shall decide within ~~a reasonable period of time~~ 30 working days.
4. The Member State concerned may request the Commission to repeal its decision referred to in paragraph 3, in accordance with the procedure referred to in Article 62(2), when that Member State demonstrates to the satisfaction of the Commission that the reasons for the decision do not exist any longer. The Commission shall decide within a reasonable period of time.	4. The Member State concerned may request the Commission to repeal its decision referred to in paragraph 3, in accordance with the procedure referred to in Article 62(2), when that Member State demonstrates to the satisfaction of the Commission that the reasons for the decision do not exist any longer. The Commission shall decide within ~~a reasonable period of time~~ 30 working days.
5. Without prejudice to paragraphs 1 to 4, the on-going compliance with the requirements set out in Articles 7a and 7b shall be monitored by the regulatory body referred to in Article 55. Any applicant shall have the right to appeal to the regulatory body if it believes that these requirements are not complied with. Upon such an appeal, the regulatory body shall decide, within the time-limits indicated in Article 56(9), on all the necessary measures to remedy the situation.	5. Without prejudice to paragraphs 1 to 4, the on-going compliance with the requirements set out in Articles 7, 7a and 7b shall be monitored by the regulatory body referred to in Article 55. Any applicant shall have the right to appeal to the regulatory body if it believes that these requirements are not complied with. Upon such an appeal, the regulatory body shall decide, within the time-limits indicated in Article 56(9), on all the necessary measures to remedy the situation.

Reason

The Commission discriminates against vertically integrated undertakings. The scope of the verifications carried out by the European commission should be the same for both integrated and separate undertakings. Like all supervisory bodies, the Commission must be subject to specific deadlines in order to boost legal certainty for all stakeholders.

Amendment 23

COM(2013) 29 final

Article 7d(1)

Text proposed by the Commission	CoR amendment
Coordination Committee	Coordination Committee
1. Member States shall ensure that infrastructure managers set up and organise Coordination Committees for each network. Membership of this committee shall be open at least to the infrastructure manager, known applicants in the sense of Article 8(3) and, upon their request, potential applicants, their representative organisations, representatives of users of the rail freight and passenger transport services and, where relevant, regional and local authorities. Member State representatives and the regulatory body concerned shall be invited to the meetings of the Coordination Committee as observers.	1. Member States shall ensure that infrastructure managers set up and organise Coordination Committees for each network, be it national, regional or local. Membership of this committee shall be open at least to the infrastructure manager, known applicants in the sense of Article 8(3) and, upon their request, potential applicants, their representative organisations, representatives of users of the rail freight and passenger transport services and, ~~where~~ the relevant, regional and local authorities. Member State representatives and the regulatory body concerned shall be invited to the meetings of the Coordination Committee as observers.

Reason

As major transport policy actors, regional and local authorities must necessarily be included on the Coordination Committees.

Amendment 24

COM(2013) 29 final

Article 7e(1)

Text proposed by the Commission	CoR amendment
European Network of Infrastructure Managers	European Network of Infrastructure Managers
1. Member States shall ensure that infrastructure managers participate and cooperate in a network to develop the Union rail infrastructure, in particular to ensure timely and efficient implementation of the trans-European transport network, including the core network corridors, rail freight corridors according to Regulation (EU) No 913/2010 and the European Rail Traffic Management System (ERTMS) deployment plan laid down in Decision 2012/88/EU.	1. Within two years of the entry into force of the present directive, Member States shall ~~ensure~~ require that infrastructure managers participate and cooperate in a network to develop the Union rail infrastructure, in particular to ensure timely and efficient implementation of the trans-European transport network, including the core network corridors, rail freight corridors according to Regulation (EU) No 913/2010 and the European Rail Traffic Management System (ERTMS) deployment plan laid down in Decision 2012/88/EU and the effectiveness of regional rail cooperation at cross-border level.
The Commission shall be a member of the Network. It shall coordinate and support the work of the Network and make recommendations to the Network, as appropriate. It shall ensure the active cooperation of the appropriate infrastructure managers.	The Commission shall be a member of the Network. It shall coordinate and support the work of the Network and make recommendations to the Network, as appropriate. It shall ensure the active cooperation of the appropriate infrastructure managers. It shall report on the progress of the Network to the Committee of the Regions and to the network of regulatory bodies referred to in Article 57 at least every two years.

Reason

The European Network of Infrastructure Managers provides an opportunity to deal with cross-border operational problems at the appropriate level. Local authorities must take part in it. Similarly, the network of regulatory bodies must be kept informed of developments in the network of infrastructure managers.

Amendment 25

COM(2013) 29 final

New article after Article 7e

Text proposed by the Commission	CoR amendment
	The infrastructure manager shall appoint from among its own staff a representative responsible for relations with local and regional authorities. The representative must be capable of replying, on behalf of the infrastructure manager, to any requests from a local or regional authority within five days.

Reason

Increased powers for infrastructure managers must go hand in hand with making them more answerable at international level via the network of infrastructure managers, but also at local level. As a genuine one-stop shop, the contact person for local or regional authorities must be capable of replying rapidly to any questions submitted.

Amendment 26

COM(2013) 29 final

Article 10, new paragraph after paragraph 2

Text proposed by the Commission	CoR amendment
	In order to guarantee non-discriminatory access to stations, station and platform managers shall make an online complaint form available to operators and all customers. The supervisory bodies and competent authorities shall receive an annual report on such complaints.

Reason

It must be possible to assess non-discriminatory access at regular intervals, especially for local and regional authorities, who have an interest in users benefiting from high-quality service provision.

Amendment 27

COM(2013) 29 final

Article 11(2)

Text proposed by the Commission	CoR amendment
In order to determine whether the economic equilibrium of a public service contract would be compromised, the relevant regulatory body or bodies referred to in Article 55 shall make an objective economic analysis and base its decision on pre-determined criteria. They shall determine this after a request from any of the following, submitted within one month from the information on the intended passenger service referred to in Article 38(4):	In order to determine whether the economic equilibrium of a public service contract would be compromised, the relevant regulatory body or bodies referred to in Article 55 shall make an objective economic analysis and base its decision on pre-determined criteria. They shall determine this after a request from any of the following, submitted within ~~one~~ two months from the information on the intended passenger service referred to in Article 38(4):

Text proposed by the Commission	CoR amendment
(a) the competent authority or competent authorities that awarded the public service contract;	(a) the competent authority or competent authorities that awarded the public service contract;
(b) any other interested competent authority with the right to limit access under this Article;	(b) any other interested competent authority with the right to limit access under this Article;
(c) the infrastructure manager;	(c) the infrastructure manager;
(d) the railway undertaking performing the public service contract.	(d) the railway undertaking performing the public service contract.

Reason

One month is too short for raising objections to a new transport service affecting the economic equilibrium of a public service contract.

Amendment 28

COM(2013) 29 final

Article 13a(1)

Text proposed by the Commission	CoR amendment
Common information and integrated ticketing schemes	Common information and integrated ticketing schemes
1. Without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU, Member States may require railway undertakings operating domestic passenger services to participate in a common information and integrated ticketing scheme for the supply of tickets, through-tickets and reservations or decide to give the power to competent authorities to establish such a scheme. If such a scheme is established, Member States shall ensure that it does not create market distortion or discriminate between railway undertakings and that it is managed by a public or private legal entity or an association of all railway undertakings operating passenger services.	1. Without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU, Member States shall ~~may~~ require railway undertakings operating domestic passenger services to participate in a common information and integrated ticketing scheme for the supply of tickets, through-tickets and reservations or decide to give the power to competent authorities to establish such a scheme. ~~If~~ When such a scheme is established, Member States shall ensure that it does not create market distortion or discriminate between railway undertakings and that it is managed by a public or private legal entity or an association of all railway undertakings operating passenger services. A group of representatives of local and regional authorities shall form part of this legal entity or association, and shall be fully involved in its decisions.

Reason

This article represents the legal basis for the regions' objective of harmonising ticketing systems in a competitive market. It enables them to address a range of issues that have emerged with regard to ticketing systems in stations managed by incumbent operators.

Companies operating national systems must be required to join in a national information system, since the development of associated services is a major factor in boosting the attractiveness of public transport, rail in particular. For this reason, local authorities must take part in system governance bodies.

Amendment 29

COM(2013) 29 final

Article 59, new paragraph after paragraph 3

Text proposed by the Commission	CoR amendment
	Vertically integrated undertakings that manage infrastructures of less than 150 km or that provide exclusively local rail services shall not be affected by Articles 7 and 7a to 7c when such services come under auxiliary management of maritime and inland port infrastructures, without prejudice to Article 13(3) of the present directive or to 'short line' freight transport.

Reason

This amendment aims to remove small rail networks and operations to meet local, little-developed needs from the scope of Articles 7 and 7a to 7c. Non-discriminatory access to service installations is also mentioned.

Amendment 30

COM(2013) 29 final

Article 59, new paragraph after paragraph 3

Text proposed by the Commission	CoR amendment
	Vertically integrated undertakings that manage specific investment projects falling under Article 32(3) of the present directive and subject to direct competition with other modes of transport are not affected by Articles 7 and 7a to 7c.

Reason

This amendment, in keeping with other provisions of Directive 2012/34/EU, seeks to exclude the particular case of 'specific investment projects', which are only likely to be profitable over the very long term, from the scope of Articles 7 and 7a to 7c.

Amendment 31

COM(2013) 27 final

Recital 29

Text proposed by the Commission	CoR amendment
(29) In order to ensure effectively the accomplishment of the functions of the Agency, the Member States and the Commission should be represented on a Management Board vested with the necessary powers, including to establish the budget and approve the annual and multi-annual work programmes.	(29) In order to ensure effectively the accomplishment of the functions of the Agency, the Member States and the Commission should be represented on a Management Board vested with the necessary powers, including to establish the budget and approve the annual and multi-annual work programmes, matters on which the Committee of the Regions and representative bodies must be consulted.

Reason

The network of representative bodies from the rail sector and the Committee of the Regions should be consulted in connection with the ERA's annual and multiannual work programmes, since they are affected by the outcome and the priorities of the ERA's work.

Amendment 32

COM(2013) 27 final

Article 33(5)

Text proposed by the Commission	CoR amendment
The national authorities responsible for issuing the licences and certificates referred to in points (c) and (d) of paragraph 2 shall notify the Agency within one month of each individual decision to issue, renew, amend or revoke those licenses and certificates.	The national authorities responsible for issuing the licences and certificates referred to in points (c) and (d) of paragraph 2 shall notify the Agency within one month of each individual decision to issue, renew, amend, deny or revoke those licenses and certificates, stating the grounds for their decision. The Agency shall ratify or revoke each decision within a month and grant the interested parties a hearing.

Reason

The point is to avoid national authorities exhausting all channels of redress, prior to the European Court of Justice, which is why the European Railway Agency should be involved in ratifying or revoking national decisions contrary to the spirit of the Single European Railway Area.

Amendment 33

COM(2013) 27 final

Article 48(5)

Text proposed by the Commission	CoR amendment
5. The Management Board shall also adopt and update a strategic multi-annual work programme by 30 November each year. The opinion of the Commission shall be taken into account. The European Parliament and the networks referred to in Article 34 shall be consulted on the draft. The adopted multi-annual work programme shall be forwarded to the Member States, the European Parliament, the Council, the Commission and to the networks referred to in Article 34.	5. The Management Board shall also adopt and update a strategic multi-annual work programme by 30 November each year. The opinion of the Commission shall be taken into account. The European Parliament, the Committee of the Regions and the networks referred to in Article 34 shall be consulted on the draft. The adopted multi-annual work programme shall be forwarded to the Member States, the European Parliament, the Council, the Commission, the Committee of the Regions and to the networks referred to in Article 34.

Reason

The Committee of the Regions should also be consulted in connection with the ERA's multiannual work programme given that the local and regional authorities contribute to financing rolling stock and have a direct interest in improving interoperability and safety.

Amendment 34

COM(2013) 27 final

Article 54(1)

Text proposed by the Commission	CoR amendment
1. An appeal may be brought before the Board of Appeal against decisions taken by the Agency pursuant to Articles 12, 16, 17 and 18.	1. An appeal may be brought before the Board of Appeal against decisions taken by the Agency pursuant to Articles 12, 16, 17 and 18, or against a failure on its part to respond within the deadlines laid down.

Reason

In the event that the Agency fails to act or does not reach a decision within the established deadlines, it must be possible to appeal.

Amendment 35

COM(2013) 27 final

Article 56(1)

Text proposed by the Commission	CoR amendment
1. When examining the appeal, the Board of Appeal shall act expeditiously. It shall, as often as necessary, invite the parties to the appeal proceedings to file, within specified time limits, observations on its notifications or on communications from other parties to the appeal proceedings. Parties to the appeal proceedings shall be entitled to make oral presentations.	1. When examining the appeal, the Board of Appeal shall act expeditiously. It shall, as often as necessary, invite the parties to the appeal proceedings to file, within specified time limits, observations on its notifications or on communications from other parties to the appeal proceedings. Parties to the appeal proceedings shall be entitled to make oral presentations. The Board of Appeal shall examine all the complaints and, according to the case, shall ask for relevant information and consult with the parties concerned within one month of receiving the complaint. It is required to decide on each complaint and shall take the necessary measures in order to remedy the situation; it shall inform the parties concerned of its decision, with reasons, by a reasonable deadline decided in advance and in all cases within a maximum of two months from receipt of all the relevant information. If the Agency should fail to act within the deadlines, the Board of Appeal may issue an injunction, if necessary applying a financial penalty.

Reason

It is important to specify the procedures and deadlines applied by the Board of Appeal when examining complaints submitted to it (e.g. the time at which the application is considered to have been received should be defined in order to calculate the deadline once the procedure has begun).

Specific powers should be invested in the Board of Appeal so that it can enforce its decision, in the form of injunctions or financial penalties (fines), especially in the event of failure to act within the deadlines.

Amendment 36

COM(2013) 27 final

New article after Article 77

Text proposed by the Commission	CoR amendment
	1. The Agency shall take decisions under Articles 12, 16, 17 and 18 with effect from [two years after the entry into force of the present regulation]. Until that time, the Member States shall continue to implement the prevailing legislative and regulatory provisions.

Text proposed by the Commission	CoR amendment
	2. During an additional transitional period of 42 months from the date set out in paragraph 1, the Member States shall continue to issue certificates and authorisations by derogation from the provisions of Articles 12, 16, 17 and 18 under the conditions defined by the Commission in the rules laid down for their implementation in accordance with Article 75. Before issuing its decisions, the Agency must assess whether: — this would lower the level of railway safety, and/or — this would constitute arbitrary discrimination or an excessive restriction on a rail transport service. The Agency may ask the national safety authorities concerned to amend the decision, to suspend its implementation or to revoke it. If the national safety authority refuses to act, the Agency may submit the issue to the Commission and to the committee mentioned in Article 75.

Reason

Based on the model of the EASA's transitional period concerning responsibility for certification of aircraft, a mechanism should be introduced for the ERA so that additional staff can gradually be recruited and trained for new tasks.

Amendment 37

COM(2013) 30 final

Annex I, 4.2

Text proposed by the Commission	CoR amendment
	3. **Cost controls** The cost-benefit analysis of the proposed measures will take into consideration, among others, the following: — cost of the proposed measure, — benefits to interoperability of an extension of the scope to particular subcategories of networks and vehicles, — reduction of capital costs and charges due to economies of scale and better utilisation of vehicles, — reduction of investment and maintenance/operating costs due to increased competition between manufacturers and maintenance companies, — environmental benefits, due to technical improvements of the rail system, — increase of safety in operation. In addition, this assessment will indicate the likely impact for all the operators and economic agents involved, including local and regional authorities.

Reason

This extract from the current directive (Annex I, 4.2) should be reinstated, so that a cost-benefit analysis of all technical measures envisaged is carried out, for each Technical Specification for Interoperability, in order to implement the most viable options, to the benefit in particular of local and regional authorities.

Brussels, 8 October 2013.

The President
of the Committee of the Regions
Ramón Luis VALCÁRCEL SISO