

19.2.2014

A7-0037/107

Amendment 107
Saïd El Khadraoui
on behalf of the S&D Group

Report
Saïd El Khadraoui
Single European railway area
COM(2013)0029 – C7-0025/2013 – 2013/0029(COD)

A7-0037/2014

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) The possibility for an infrastructure manager to pay dividends to the ultimate owner of the vertically integrated undertaking should not prevent the infrastructure manager from constituting reserves in order to improve its financial situation and to balance its accounts over a reasonable period as required by this Directive. All dividend payments of the infrastructure manager should be earmarked to be used for investments in the renewal of the railway infrastructure in operation.

Or. en

19.2.2014

A7-0037/108

Amendment 108
Saïd El Khadraoui
on behalf of the S&D Group

Report
Saïd El Khadraoui
Single European railway area
COM(2013)0029 – C7-0025/2013 – 2013/0029(COD)

A7-0037/2014

Proposal for a directive
Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) The holding company in a vertically integrated undertaking may contribute to strategic decisions necessary for the good functioning of the railway transport system as a whole in the interest of all parties active in the railway market, without prejudice to the decisions pertaining to the functions of the infrastructure manager.

Or. en

19.2.2014

A7-0037/109

Amendment 109
Saïd El Khadraoui
on behalf of the S&D Group

Report
Saïd El Khadraoui
Single European railway area
COM(2013)0029 – C7-0025/2013 – 2013/0029(COD)

A7-0037/2014

Proposal for a directive
Recital 12 c (new)

Text proposed by the Commission

Amendment

(12c) It shall also be possible for the representatives of the ultimate owners of the vertically integrated undertaking in the Supervisory Board to include persons appointed by the ultimate owners but not employed by them, provided they do not have any responsibility or interest in any other entity of the vertically integrated undertaking.

Or. en

19.2.2014

A7-0037/110

Amendment 110
Saïd El Khadraoui
on behalf of the S&D Group

Report
Saïd El Khadraoui
Single European railway area
COM(2013)0029 – C7-0025/2013 – 2013/0029(COD)

A7-0037/2014

Proposal for a directive
Recital 12 d (new)

Text proposed by the Commission

Amendment

(12d) The rules ensuring the independence of the infrastructure manager within the vertically integrated undertaking should be without prejudice to the Eurostat criteria on government deficit and debt, since in any case the holding, even taking into account the safeguards for the independence of the infrastructure manager, may still retain ownership of the infrastructure and in addition a sufficient number of functions in order not to be considered as a purely artificial entity having as its sole purpose the reduction of government debt within the meaning of those criteria.

Or. en

19.2.2014

A7-0037/111

Amendment 111

Saïd El Khadraoui

on behalf of the S&D Group

Report

A7-0037/2014

Saïd El Khadraoui

Single European railway area

COM(2013)0029 – C7-0025/2013 – 2013/0029(COD)

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 a – paragraph 3

Text proposed by the Commission

Amendment

3. The infrastructure manager's incomes may not be used in order to finance other legal entities within the vertically integrated undertaking but only in order to finance the business of the infrastructure manager **and to pay dividends** to the ultimate owner of the vertically integrated company. The infrastructure manager **may not grant loans to any other legal entities** within the vertically integrated undertaking, **and no other legal entity within the vertically integrated undertaking may grant loans** to the **infrastructure manager**. Any services offered by other legal entities to the infrastructure manager shall be based on contracts and be paid at market prices. The debt attributed to the infrastructure manager shall be clearly separated from the debt attributed to other legal entities within the vertically integrated undertaking, and these debts shall be serviced separately. The accounts of the infrastructure manager and of the other legal entities within the vertically integrated undertaking shall be kept in a way that ensures the fulfilment of these provisions and allows for separate financial circuits for the infrastructure

3. The infrastructure manager's incomes may not be used in order to finance other legal entities within the vertically integrated undertaking but only in order to finance the business of the infrastructure manager. **Dividend payments may only be paid** to the ultimate owner of the vertically integrated company. **Such dividend payments shall be earmarked to be used for investment in the railway infrastructure and shall not prevent the infrastructure manager from constituting reserves in order to balance its accounts over a reasonable period as required by this Directive.**

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manager and for the other legal entities within the vertically integrated undertaking.

The infrastructure manager may grant loans only to its own subsidiaries dealing with infrastructure management. Within the vertically integrated undertaking, loans to the infrastructure manager may only be granted by the holding company and shall be subject to prior approval by the regulatory body referred to in Article 55. The holding company shall demonstrate to the satisfaction of the regulatory body that the loan is granted on market terms and that it complies with Article 6. The regulatory body shall control the actual disbursement and reimbursement of the loan, in accordance with Article 56(12).

Any services offered by other legal entities to the infrastructure manager shall be based on contracts and be paid at market prices.

The debt attributed to the infrastructure manager shall be clearly separated from the debt attributed to other legal entities within the vertically integrated undertaking, and these debts shall be serviced separately.

The accounts of the infrastructure manager and of the other legal entities within the vertically integrated undertaking shall be kept in a way that ensures the fulfilment of these provisions and allows for separate financial circuits for the infrastructure manager and for the other legal entities within the vertically integrated undertaking.

Or. en

19.2.2014

A7-0037/112

Amendment 112

Saïd El Khadraoui

on behalf of the S&D Group

Report

A7-0037/2014

Saïd El Khadraoui

Single European railway area

COM(2013)0029 – C7-0025/2013 – 2013/0029(COD)

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

The infrastructure manager shall have a Supervisory Board which is composed of representatives of the ultimate owners of the vertically integrated undertaking.

The infrastructure manager shall have a Supervisory Board which is composed of representatives of the ultimate owners of the vertically integrated undertaking. ***The Supervisory Board may also include representatives of the staff of the infrastructure manager.***

Or. en

19.2.2014

A7-0037/113

Amendment 113
Saïd El Khadraoui
on behalf of the S&D Group

Report
Saïd El Khadraoui
Single European railway area
COM(2013)0029 – C7-0025/2013 – 2013/0029(COD)

A7-0037/2014

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c a (new)

Text proposed by the Commission

Amendment

Article 7ca

Without prejudice to Articles 7 to 7c and provided that no conflict of interest arises and that the confidentiality of commercially sensitive information is guaranteed, Member States may authorise the infrastructure manager to engage in cooperation agreements, in a transparent, non-exclusive and non-discriminatory way, with one or more applicants as regards a specific line or a local or regional part of the network, in such a way as to give such applicant financial incentives to increase the efficiency of its cooperation in relation to the part of the network concerned. Such incentives shall consist in modulations of track access charges corresponding to possible cost savings or revenue increases for the infrastructure manager as a result of that cooperation.

Such cooperation shall be aimed at delivering more efficient management of disruptions, maintenance works or congested infrastructure, or of a line or a part of the network prone to delays, or at improving safety. Its duration shall be

limited to a maximum of five years and shall be renewable. The infrastructure manager shall inform the regulatory body referred to in Article 55 of the planned cooperation. The regulatory body shall give its prior approval to the cooperation agreement, demand its modification or reject it if the above conditions are not fulfilled. It may require the agreement to be modified at any stage throughout the duration of the agreement. The infrastructure manager shall inform the coordination committee referred to in Article 7d about the cooperation agreement.

Or. en

19.2.2014

A7-0037/114

Amendment 114

Saïd El Khadraoui

on behalf of the S&D Group

Report

A7-0037/2014

Saïd El Khadraoui

Single European railway area

COM(2013)0029 – C7-0025/2013 – 2013/0029(COD)

Proposal for a directive

Article 1 – point 6 – point b

Directive 2012/34/EU

Article 11 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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.

Those criteria shall cover, inter alia, the impact of the exercise of the right of access on the profitability of any services comprised in the public service contract, including the resulting impacts on the net cost to the competent public authority that awarded the contract, passenger demand, ticket pricing, ticketing arrangements, the location and number of stops and timing and the frequency of the proposed new service, and shall be established by the regulatory body referred to in Article 55 in compliance with the measures provided for in paragraph 4 of this Article. The analysis shall assess whether the viability of the services operated under the public

service contract would be compromised by a new open access service.

The economic equilibrium of the public service contract shall not be deemed to be compromised if the regulatory body predicts that the prospective new service would be mainly revenue-generating rather than revenue-abstracting for the rail sector, and that the revenue loss for the set of services under the public service contract or contracts, if any, would not be substantial. In accordance with such analysis and the decision of the relevant regulatory body, Member States shall be empowered to authorise, modify or deny the right of access for the passenger service sought.

2a. Where a public service contract is awarded through a competitive public tendering procedure in accordance with Union law, Member States may, in accordance with Regulation (EC) No 1370/2007, limit the right of access provided for in Article 10(2) of this Directive for the duration of that public service contract on services between a place of departure and a destination which are covered by that public service contract. The information that the right of access is limited shall be made public when the tendering procedure for that public service contract is launched. Any additional new service within the meaning of Article 10(2) which is predicted by the regulatory body to be mainly revenue-generating rather than revenue-abstracting for the rail sector and in respect of which the revenue loss for the set of services under the public service contract, if any, is predicted not to be substantial shall not be limited in its access.

The limitations referred to in this paragraph shall not have the effect of restricting the right to pick up passengers at any station located along the route of an international service and to set them

down at another, including at stations located in the same Member State.

2b. The regulatory body or bodies performing the analyses referred to in paragraphs 2 and 2a shall make its or their determination after a request from any of the following, submitted within one month from *receipt of* the information on the intended passenger service referred to in Article 38(4):

- (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;
- (c) the infrastructure manager;
- (d) the railway undertaking performing 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;
- (c) the infrastructure manager;
- (d) the railway undertaking performing the public service contract;

(da) the railway undertaking that has requested capacity in accordance with Article 38(4).

Or. en

18.2.2014

A7-0037/115

Amendment 115

Philippe De Backer

on behalf of the ALDE Group

Report

A7-0037/2014

Saïd El Khadraoui

Single European railway area

COM(2013)0029 – C7-0025/2013 – 2013/0029(COD)

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 a – paragraph 3

Text proposed by the Commission

Amendment

3. The infrastructure manager's incomes may not be used in order to finance other legal entities within the vertically integrated undertaking but only in order to finance the business of the infrastructure manager ***and to pay dividends*** to the ultimate owner of the vertically integrated company. The infrastructure manager may ***not*** grant loans to ***any other legal entities*** within the vertically integrated undertaking, ***and no other legal entity within the vertically integrated undertaking may grant loans to the infrastructure manager.*** Any services offered by other legal entities to the infrastructure manager shall be based on contracts and be paid at market prices. The debt attributed to the infrastructure manager shall be clearly separated from the debt attributed to other legal entities within the vertically integrated undertaking, and these debts shall be serviced separately. The accounts of the infrastructure manager and of the other legal entities within the vertically integrated undertaking shall be kept in a way that ensures the fulfilment of these provisions and allows for separate

3. The infrastructure manager's incomes may not be used in order to finance other legal entities within the vertically integrated undertaking but only in order to finance the business of the infrastructure manager. ***Dividend payments may only be paid*** to the ultimate owner of the vertically integrated company. ***Such dividend payments shall be earmarked to be used for investments in the railway infrastructure and shall not prevent the infrastructure manager from constituting reserves in order to balance its accounts over a reasonable period as required by this Directive.***

The infrastructure manager may grant loans ***only to its own subsidiaries dealing with infrastructure management.*** Within the vertically integrated undertaking, ***loans to the infrastructure manager may only be granted by the holding company and shall be subject to prior approval by the regulatory body referred to in Article 55. The holding company shall demonstrate to the satisfaction of the regulatory body that the loan is granted on market terms and that it complies with Article 6. The***

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financial circuits for the infrastructure manager and for the other legal entities within the vertically integrated undertaking.

regulatory body shall control the actual disbursement and reimbursement of the loan, in accordance with Article 56(12).

Any services offered by other legal entities to the infrastructure manager shall be based on contracts and be paid at market prices.

The debt attributed to the infrastructure manager shall be clearly separated from the debt attributed to other legal entities within the vertically integrated undertaking, and these debts shall be serviced separately.

The accounts of the infrastructure manager and of the other legal entities within the vertically integrated undertaking shall be kept in a way that ensures the fulfilment of these provisions and allows for separate financial circuits for the infrastructure manager and for the other legal entities within the vertically integrated undertaking.

18.2.2014

A7-0037/116

Amendment 116
Philippe De Backer
on behalf of the ALDE Group

Report
Saïd El Khadraoui
Single European railway area
COM(2013)0029 – C7-0025/2013 – 2013/0029(COD)

A7-0037/2014

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c a (new)

Text proposed by the Commission

Amendment

Article 7ca

Without prejudice to Articles 7 to 7c and provided that no conflict of interest arises and that the confidentiality of commercially sensitive information is guaranteed, Member States may authorise the infrastructure manager to engage in cooperation agreements, in a transparent, non-exclusive and non-discriminatory way, with one or more applicants as regards a specific line or a local or regional part of the network, in such a way as to give such applicant financial incentives to increase the efficiency of its cooperation in relation to the part of the network concerned. Such incentives shall consist in modulations of track access charges corresponding to possible cost savings or revenue increases for the infrastructure manager as a result of that cooperation.

Such cooperation shall be aimed at delivering more efficient management of disruptions, maintenance works or congested infrastructure, or of a line or a part of the network prone to delays, or at improving safety. Its duration shall be

limited to a maximum of five years and shall be renewable. The infrastructure manager shall inform the regulatory body referred to in Article 55 of the planned cooperation. The regulatory body shall give its prior approval to the cooperation agreement, demand its modification or reject it if the above conditions are not fulfilled. It may require the agreement to be modified at any stage throughout the duration of the agreement. The infrastructure manager shall inform the coordination committee referred to in Article 7d about the cooperation agreement.

Or. en