



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Transport and Tourism

2013/0029(COD)

23.9.2013

AMENDMENTS 317 - 575

Draft report
Saïd El Khadraoui
(PE513.018v01-00)

on the 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 structure

Proposal for a directive
(COM(2013)0029 – C7-0025/2013 – 2013/0029(COD))

AM\1003536EN.doc

PE519.538v01-00

EN

United in diversity

EN

AM_Com_LegReport

Amendment 317
Gilles Pargneaux
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 3 – subparagraph 4

Text proposed by the Commission

Effective rights of appeal to the regulatory body shall be granted **for members** of the management board who wish to enter complaints against the premature termination of the office.

Amendment

Without prejudice to rights of appeal in respect of the rights of employees and managers laid down in national law, effective rights of appeal to the regulatory body shall be granted **to chairmen** of the management board **or board of directors of the infrastructure manager** who wish to enter complaints against the premature termination of the office.

Or. fr

Amendment 318
Karim Zéribi
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 3 – subparagraph 4

Text proposed by the Commission

Effective rights of appeal to the regulatory body shall be granted **for members** of the management board who wish to enter complaints against the premature termination of the office.

Amendment

Without prejudice to rights of appeal in respect of the rights of employees and managers laid down in national law, effective rights of appeal to the regulatory body shall be granted **to chairmen** of the management board **or board of directors of the infrastructure manager** who wish to enter complaints against the premature termination of the office.

Or. fr

Justification

Self-explanatory.

Amendment 319

Erik Bánki

Proposal for a directive

Article 1 – point 4

Directive 2012/34

Article 7 b – paragraph 4

Text proposed by the Commission

Amendment

4. For a period of three years after leaving the infrastructure manager, members of the Supervisory Board or management board and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. For a period of three years after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled to hold any senior position with the infrastructure manager. *deleted*

Or. hu

Justification

The provisions laid down in Article 7b(4) of the proposal are too rigid and are not strictly necessary in ensuring the independence of infrastructure managers; they also hinder the appointment of staff with the requisite expertise in the railway sector. It is vital that in the long term there are railway specialists who have an overview of every sector. This provision would unjustifiably hinder the labour flow.

Amendment 320

Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 4

Text proposed by the Commission

Amendment

4. For a period of three years after leaving the infrastructure manager, members of the Supervisory Board or management board and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. For a period of three years after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled to hold any senior position with the infrastructure manager. *deleted*

Or. fr

Amendment 321

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 4

Text proposed by the Commission

Amendment

For a period of three years after leaving the infrastructure manager, members of the Supervisory Board or management board and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. For a period of three years after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled to hold any senior position with the infrastructure manager. *deleted*

Amendment 322
Isabelle Durant

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 4

Text proposed by the Commission

Amendment

For a period of three years after leaving the infrastructure manager, members of the Supervisory Board or management board and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. For a period of three years after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled to hold any senior position with the infrastructure manager.

deleted

Or. en

Justification

By virtue of the existing legislation, essential functions need to be separated from any RU, be it alone or as part of an IM that is itself separated from any RU. When this is the case, non-discrimination can be controlled by a strong regulator as a performance obligation rather than as an obligation of means and there is no need to erect any extra Chinese Wall or to impose undue constraints on the job prospects and rail sector employability of experienced railway managers.

Amendment 323
Gilles Pargneaux
Proposal for a directive
Article 1 – point 4

Text proposed by the Commission

4. For a period of three years after leaving the infrastructure manager, members of the Supervisory Board or management board and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. For a period of three years after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled to hold any senior position with the infrastructure manager.

Amendment

4. A committee on professional ethics shall issue a reasoned opinion in cases where a member of the management board or board of directors of the infrastructure manager who is responsible for the essential functions listed in Article 3(2a) plans to take up a post with another legal entity within the vertically integrated undertaking engaged in activities in railway transport services markets or with any firm engaged in activities in railway transport services markets. Where no such committee on professional ethics exists, members of the management board or board of directors of the infrastructure manager with responsibility for the essential functions listed in Article 3(2) shall not be entitled, for a period of three years after leaving the infrastructure manager, to hold any senior position with other legal entities within the vertically integrated undertaking engaged in activities in railway transport services markets or with any firm engaged in activities in railway transport services markets.

Or. fr

Amendment 324
Saïd El Khadraoui

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 4

Text proposed by the Commission

4. For a period of three years after leaving the infrastructure manager, members of the Supervisory Board or management board

Amendment

4. For a period of three years after leaving the infrastructure manager, members of the Supervisory Board or management board

and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. For a period of three years after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled to hold any senior position with the infrastructure manager.

of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. For a period of three years after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled to hold any senior position with the infrastructure manager. ***Senior staff members may be transferred between the different entities of a vertically integrated undertaking subject to prior approval of the regulatory body referred to in Article 55 which shall verify the absence of conflicts of interest and the absence of risk that sensitive information are passed on between them.***

Or. en

Amendment 325
Antonio Cancian
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 – paragraph 4

Text proposed by the Commission

4. For a period of ***three years*** after leaving the infrastructure manager, members of the ***Supervisory Board or*** management board and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. ***For a period of three years after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled to hold any senior position with the infrastructure manager.***

Amendment

4. For a period of ***eighteen months*** after leaving the infrastructure manager, members of the management board, ***the staff responsible for carrying out the essential functions*** and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking.

Amendment 326
Michel Dantin, Marie-Thérèse Sanchez-Schmid
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 4

Text proposed by the Commission

4. For a period of **three years** after leaving the infrastructure manager, members of the Supervisory Board or management board and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. For a period of **three years** after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled to hold any senior position with the infrastructure manager.

Amendment

4. For a period of **one year** after leaving the infrastructure manager, members of the Supervisory Board or management board and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. For a period of **one year** after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled to hold any senior position with the infrastructure manager.

Amendment 327
David-Maria Sassoli, Franco Frigo
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
article 7 b – paragraph 4

Text proposed by the Commission

4. For a period of **three years** after leaving the infrastructure manager, **members of the Supervisory Board or management board and senior staff members of the infrastructure manager shall not be entitled to hold any senior position with any other legal entities within the vertically integrated undertaking. For a**

Amendment

4. For a period of **18 months** after leaving the infrastructure manager, senior staff members **and staff responsible for carrying out the essential functions** shall not be entitled to hold any senior position **in railway undertakings.**

*period of three years after leaving those other legal entities within the vertically integrated undertaking, their supervisory or management boards' members and senior staff members shall not be entitled to hold any senior position **with the infrastructure manager.***

Or. it

Amendment 328
Jean-Jacob Bicep
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 5

Text proposed by the Commission

Amendment

5. The infrastructure manager shall have its own staff and be located in separate premises from the other legal entities within the vertically integrated undertaking. Access to information systems shall be protected to ensure the independence of the infrastructure manager. Internal rules or staff contracts shall clearly limit contacts with the other legal entities within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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.

deleted

Or. fr

Amendment 329

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 5

Text proposed by the Commission

Amendment

5. The infrastructure manager shall have its own staff and be located in separate premises from the other legal entities within the vertically integrated undertaking. Access to information systems shall be protected to ensure the independence of the infrastructure manager. Internal rules or staff contracts shall clearly limit contacts with the other legal entities within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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.

deleted

Or. en

Amendment 330

Isabelle Durant

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 5

5. The infrastructure manager shall have its own staff and be located in separate premises from the other legal entities within the vertically integrated undertaking. Access to information systems shall be protected to ensure the independence of the infrastructure manager. Internal rules or staff contracts shall clearly limit contacts with the other legal entities within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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. *deleted*

Or. en

Justification

By virtue of the existing legislation, essential functions need to be separated from any RU, be it alone or as part of an IM that is itself separated from any RU. When this is the case, non-discrimination can be controlled by a strong regulator as a performance obligation rather than as an obligation of means and there is no need to complicate further the management of the integrated RUs' human resources or to impose undue constraints on the job mobility and career options of their staff.

Amendment 331
Saïd El Khadraoui

Proposal for a directive
Article 1 – point 4

Text proposed by the Commission

5. The infrastructure manager shall have its own staff and be located in separate premises from the other legal entities within the vertically integrated undertaking. Access to information systems shall be protected to ensure the independence of the infrastructure manager. Internal rules or staff contracts shall clearly limit contacts with the other legal entities within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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.

Amendment

5. The infrastructure manager shall have its own staff and be located in separate premises from the other legal entities within the vertically integrated undertaking. Access to information systems shall be protected to ensure the independence of the infrastructure manager. Internal rules or staff contracts shall clearly limit contacts with the other legal entities within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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. ***Notwithstanding this obligation, the infrastructure manager may offer to its staff social services, such as those provided in schools, kindergartens, sport centres and restaurants, in premises used by the other legal entities within the vertically integrated undertaking.***

Or. en

Amendment 332
Gilles Pargneaux
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 5

5. ***The infrastructure manager shall have its own staff and be located in separate premises from the other legal entities within the vertically integrated undertaking. Access to information systems shall be protected to ensure the independence of the infrastructure manager. Internal rules or staff contracts shall clearly limit contacts with the other legal entities within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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.

a) Member States shall ensure that employees of the infrastructure manager do not carry on any activity for another legal entity within the vertically integrated undertaking engaged in activities in railway transport services markets, or in any other firm engaged in activities in railway transport services markets.

b) with the exception of premises occupied by staff responsible for rail traffic management, which can be used by the representatives of each railway undertaking that so requests, the premises of the infrastructure manager needed for performing the other infrastructure management tasks defined in Article 3(2) shall be separate from those of the other legal entities within the vertically integrated undertaking engaged in activities in railway transport services markets and those of any other firm engaged in activities in railway transport services markets.

c) Access to the information systems of the services responsible for performing the essential functions listed in Article 3(2a) shall be protected in a proportionate manner to ensure the independence of the

infrastructure manager.

(d) Member States shall take the appropriate measures to ensure that penalties are imposed for any disclosure of sensitive information by employees or former employees of the infrastructure manager which benefits another legal entity within the vertically integrated undertaking engaged in activities in railway transport services markets or any other firm engaged in activities in railway transport services markets.

Or. fr

Amendment 333
Antonio Cancian
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 5

Text proposed by the Commission

5. The infrastructure manager shall have its own staff and be located in separate premises from the *other legal entities* within the vertically integrated undertaking. *Access to information systems shall be protected to ensure the independence of the infrastructure manager.* Internal rules or staff contracts shall clearly limit contacts with the *other legal entities* within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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

Amendment

5. The infrastructure manager shall have its own staff and be located in separate premises from the *railway undertakings* within the vertically integrated undertaking. Internal rules or staff contracts shall clearly limit contacts with the *railway undertakings* within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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.

information will not be passed on between them.

Or. it

Amendment 334
Joachim Zeller
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 5

Text proposed by the Commission

5. The infrastructure manager shall have its own staff and be located in separate premises from the other legal entities within the vertically integrated undertaking. Access to information systems shall be protected to ensure the independence of the infrastructure manager. Internal rules or staff contracts shall clearly limit contacts with the other legal entities within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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.***

Amendment

5. The infrastructure manager shall have its own staff and be located in separate premises from the other legal entities within the vertically integrated undertaking. Access to information systems shall be protected to ensure the independence of the infrastructure manager. Internal rules or staff contracts shall clearly limit contacts with the other legal entities within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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 be possible. ***In line with established practices under commercial law, however, the staff concerned shall not disclose business secrets relating to their former activities.***

Or. de

Justification

So extensive a restriction on the internal mobility of a firm's staff is disproportionate and constitutionally questionable. Cooling-off periods and other information barriers are

sufficient to prevent sensitive information from being taken from one subsidiary to another. If this restriction were maintained, there would be a considerable loss of know-how and professional experience.

Amendment 335

David-Maria Sassoli, Franco Frigo

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 5

Text proposed by the Commission

5. The infrastructure manager shall have its own staff **and** be located in separate premises from the **other legal entities within the vertically integrated undertaking. Access to information systems shall be protected to ensure the independence of the infrastructure manager.** Internal rules or staff contracts shall clearly limit contacts with the **other legal entities** within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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.

Amendment

5. The infrastructure manager shall have its own staff. **The staff responsible for carrying out the essential functions shall** be located in separate premises from the **railway undertakings.** Internal rules or staff contracts shall clearly limit contacts with the **railway undertakings** within the vertically integrated undertaking to official communications connected with the exercise of the functions of the infrastructure manager which are also exercised in relation to other railway undertakings outside the vertically integrated undertaking. 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.

Or. it

Amendment 336

Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 6

Text proposed by the Commission

Amendment

6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions independently from the other legal entities within the vertically integrated undertaking and shall not be allowed to delegate to these legal entities the operation of these functions or any activities related to them. *deleted*

Or. fr

Amendment 337

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 6

Text proposed by the Commission

Amendment

6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions independently from the other legal entities within the vertically integrated undertaking and shall not be allowed to delegate to these legal entities the operation of these functions or any activities related to them. *deleted*

Or. en

Amendment 338

Isabelle Durant

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 6

Text proposed by the Commission

Amendment

6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions independently from the other legal entities within the vertically integrated undertaking and shall not be allowed to delegate to these legal entities the operation of these functions or any activities related to them.

deleted

Or. en

Justification

When essential functions are separated from any RU, non-discrimination can be controlled by a strong regulator as a performance obligation and there is no need to prevent entities of the integrated RU from offering services to the IM if against no more than market prices. As a matter of fact, such a prohibition would even contradict the proposed new Article 7a, 3, which states that "any services offered by other legal entities to the IM shall be based on contracts and be paid at market prices".

Amendment 339

Gilles Pargneaux

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 6

Text proposed by the Commission

Amendment

6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions independently from the other legal entities within the vertically integrated undertaking and shall not be allowed to delegate to these legal entities the operation of these functions or any activities related to them.

6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions independently from the other legal entities within the vertically integrated undertaking ***engaged in activities in railway transport services markets and from any other firm engaged in activities in railway transport services markets***, and shall not be allowed to delegate to these legal entities the operation of these functions or any activities related to them.

Amendment 340
Antonio Cancian
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 6

Text proposed by the Commission

6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions ***independently from the other legal entities within the vertically integrated undertaking and shall not be allowed to delegate to these legal entities the operation of these functions or any activities related to them.***

Amendment

6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions.

Amendment 341
Karim Zéribi
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 6

Text proposed by the Commission

6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions independently from the other legal entities within the vertically integrated undertaking and shall not be allowed to delegate to these legal entities the operation of these functions or any activities related to them.

Amendment

6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions independently from the other legal entities within the vertically integrated undertaking and ***from any other firm with a railway undertaking licence*** shall not be allowed to delegate to these legal entities the operation of these functions or any activities related to them.

Justification

Self-explanatory.

Amendment 342

David-Maria Sassoli, Franco Frigo

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 6

Text proposed by the Commission

6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions independently from the ***other legal entities*** within the vertically integrated ***undertaking*** and shall not be allowed to delegate to ***these legal entities*** the operation of these functions or any activities related to them.

Amendment

6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions independently from the ***railway undertaking*** within the vertically integrated ***structure*** and shall not be allowed to delegate to ***that undertaking*** the operation of these functions or any activities related to ***it***.

Or. it

Amendment 343

Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 7

Text proposed by the Commission

7. The members of the supervisory or management boards and senior staff of the infrastructure manager shall hold no interest in or receive any financial benefit, directly or indirectly, from any other legal entities within the vertically integrated undertaking. Performance-based elements of their remuneration shall not depend on the business results of any other legal entities within the vertically integrated undertaking or any legal entities under its control, but exclusively on those of the infrastructure manager.

Amendment

deleted

Amendment 344

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 7

Text proposed by the Commission

Amendment

7. The members of the supervisory or management boards and senior staff of the infrastructure manager shall hold no interest in or receive any financial benefit, directly or indirectly, from any other legal entities within the vertically integrated undertaking. Performance-based elements of their remuneration shall not depend on the business results of any other legal entities within the vertically integrated undertaking or any legal entities under its control, but exclusively on those of the infrastructure manager.

deleted

Amendment 345

Isabelle Durant

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 b – paragraph 7

Text proposed by the Commission

Amendment

7. The members of the supervisory or management boards and senior staff of the infrastructure manager shall hold no interest in or receive any financial benefit, directly or indirectly, from any other legal entities within the vertically integrated undertaking. Performance-based elements

deleted

of their remuneration shall not depend on the business results of any other legal entities within the vertically integrated undertaking or any legal entities under its control, but exclusively on those of the infrastructure manager.

Or. en

Justification

Why prevent the management or staff of an IM from benefiting directly or indirectly from the exceptional performances of a client RU, be it "integrated" or not, if a strong regulator can be called upon in case of doubt, to check that this performance has not been achieved and that these benefits have not been received by resorting to any discriminatory behaviour at the expense of any other RU?

Amendment 346 **Oldřich Vlasák**

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 7

Text proposed by the Commission

7. The members of the supervisory or management boards **and** senior staff of the infrastructure manager shall hold no interest in or receive any financial benefit, directly or indirectly, from any other legal entities within the vertically integrated undertaking. Performance-based elements of their remuneration shall not depend on the business results of any other legal entities within the vertically integrated undertaking or any legal entities under its control, but exclusively on those of the infrastructure manager.

Amendment

7. The members of the supervisory or management boards, senior staff **as well as employees** of the infrastructure manager **with access to inside information** shall hold no interest in or receive any financial benefit, directly or indirectly, from any other legal entities within the vertically integrated undertaking. Performance-based elements of their remuneration shall not depend on the business results of any other legal entities within the vertically integrated undertaking or any legal entities under its control, but exclusively on those of the infrastructure manager.

Or. en

Amendment 347
Antonio Cancian
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 7

Text proposed by the Commission

7. The members of the *supervisory or* management *boards* and senior staff of the infrastructure manager shall hold no interest in *or receive any financial benefit, directly or indirectly, from* any other legal entities within the vertically integrated undertaking. Performance-based elements of their remuneration shall not depend on the business results of any other legal entities within the vertically integrated undertaking or any legal entities under its control, but exclusively on *those* of the *infrastructure manager*.

Amendment

7. The members of the management *board* and senior staff of the infrastructure manager shall hold no interest in any other legal entities within the vertically integrated undertaking. Performance-based elements of their remuneration shall not depend on the business results of any other legal entities within the vertically integrated undertaking or any legal entities under its control, but exclusively on *the overall results of the railway system in terms of traffic volume, performance and safety*.

Or. it

Justification

It needs to be ensured that the infrastructure manager is working in the interest of the system, and thus of all operators. The aim is to avoid the mass downgrading that would be brought about by disconnecting the manager's performance from a system-based approach.

Amendment 348
David-Maria Sassoli, Franco Frigo
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 b – paragraph 7

Text proposed by the Commission

7. The members of the *supervisory or* management *boards* and senior staff of the infrastructure manager shall hold no interest in *or receive any financial benefit, directly or indirectly, from any other legal entities* within the vertically integrated

Amendment

7. The members of the management *board* and senior staff of the infrastructure manager shall hold no interest in *the railway undertakings* within the vertically integrated undertaking. Performance-based elements of their remuneration shall not

undertaking. Performance-based elements of their remuneration shall not depend on the business results of any other legal entities within the vertically integrated undertaking or any legal entities under its control, but *exclusively* on those of the infrastructure manager.

depend on the business results of any other legal entities within the vertically integrated undertaking or any legal entities under its control, but on those of the infrastructure manager *and on the overall results of the railway system in terms of traffic volume, performance and safety.*

Or. it

Amendment 349
Jean-Jacob Bicep
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c

Text proposed by the Commission

Amendment

[...]

deleted

Or. fr

Amendment 350
Gilles Pargneaux
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c

Text proposed by the Commission

Amendment

[...]

deleted

Or. fr

Justification

The verification of compliance procedure raises several legal issues. It would award the Commission excessive discretionary powers and powers of constraint and impinge on the powers of the Court of Justice of the European Union laid down in Articles 258 and 260 TFEU.

Amendment 351
Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

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

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 352
Isabelle Durant

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

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Justification

The only justified constraints to the functioning of integrated RUs in the proposed new Articles 7a & 7b are those concerning the prohibition of financial transfers from an IM to any RU. These prohibitions are clear and straightforward. Given the EC's record of vexatious litigations against Members States in the implementation of the first railway packages and its obsession with vertical separation, it is safer to leave the supervision of these prohibitions up to the regulator.

Amendment 353
Marita Ulvskog
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c

Text proposed by the Commission

Amendment

[...]

deleted

Or. sv

Amendment 354
Sabine Wils, Jacky Hénin

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

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Justification

The so-called Reinforced Chinese Walls Model as proposed in Articles 7a, 7b and 7c by the Commission would neither contribute to greater efficiency nor provide added value in the rail sector. The existing essential functions are well explained in Directive 2012/34 and must be kept as they are. Moreover, sufficient legal clarity regarding how these provisions should be implemented has been provided by the rulings of the European Court of Justice of 28 February 2013, 18 April 2013 and 11 July 2013.

Amendment 355
Jean-Jacob Bicep
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c – Title

Text proposed by the Commission

Amendment

Procedure of verification of compliance

deleted

Or. fr

Amendment 356

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7c – Title

Text proposed by the Commission

Amendment

Procedure of verification of compliance ***deleted***

Or. en

Amendment 357

Erik Bánki

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 1

Text proposed by the Commission

Amendment

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 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. ***deleted***

Or. hu

Justification

The procedure set out in Article 7c of the proposal would place a considerable administrative burden on the Member States and the infrastructure managers. The provision fails to resolve a number of questions and does not constitute a definitive guarantee of the independence of infrastructure managers, particularly as, according to the provisions of the Article, this is monitored by the railway administration. It follows that the provision on the Commission procedure should be deleted.

Amendment 358
Jean-Jacob Bicep
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c – paragraph 1

Text proposed by the Commission

Amendment

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 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.

deleted

Or. fr

Amendment 359
Gilles Pargneaux
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c – paragraph 1

Text proposed by the Commission

Amendment

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 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.

deleted

Or. fr

Justification

The verification of compliance procedure raises several legal issues. It would award the Commission excessive discretionary powers and powers of constraint and impinge on the powers of the Court of Justice of the European Union laid down in Articles 258 and 260 TFEU.

Amendment 360

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 1

Text proposed by the Commission

Amendment

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 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.

deleted

Or. en

Amendment 361

Philippe De Backer, Phil Bennion, Ramon Tremosa i Balcells

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 1

Text proposed by the Commission

Amendment

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

1. Upon request of a Member State, ***a railway undertaking*** or on its own initiative, the Commission shall decide whether infrastructure managers which are

undertaking fulfil the requirements of Article 7a and Article 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.

part of a vertically integrated undertaking fulfil the requirements of Article 7a and Article 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.

Or. en

Amendment 362

Michael Cramer, Karim Zérifi

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 1

Text proposed by the Commission

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 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.

Amendment

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 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, ***in particular with regard to the prohibition on transferring public funds and revenues from the infrastructure to another area of activity.***

Or. en

Justification

Taxpayers do not accept that companies divert public funds to commercial activities, e.g. for taking over competitors or financing road freight activities. It shall however be possible to use surpluses from commercial activities to support activities financed through public funds, e.g. by investing into publicly funded railway infrastructure.

Amendment 363
Karim Zéribi
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c – paragraph 1

Text proposed by the Commission

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 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.**

Amendment

1. In accordance with the procedure under Article 258 of the Treaty on the Functioning of the European Union, the Commission shall **verify that** infrastructure managers which are part of a vertically integrated undertaking fulfil the requirements of Article 7a and Article 7b and **that their** implementation **gives all railway undertakings a genuine right of access to the market.**

Or. fr

Justification

Self-explanatory.

Amendment 364
Erik Bánki
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c – paragraph 2

Text proposed by the Commission

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.

Amendment

deleted

Justification

The provisions set out in Article 7c of the proposal would place a considerable administrative burden on the Member States and the infrastructure managers. The provision fails to resolve a number of questions and does not constitute a definitive guarantee of the independence of infrastructure managers, particularly as, according to the provisions of the Article, this is monitored by the railway administration. It follows that the provision on the Commission procedure should be deleted.

Amendment 365**Jean-Jacob Bicep****Proposal for a directive****Article 1 – point 4**

Directive 2012/34/EU

Article 7 c – paragraph 2

*Text proposed by the Commission**Amendment*

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. *deleted*

Amendment 366**Gilles Pargneaux****Proposal for a directive****Article 1 – point 4**

Directive 2012/34/EU

Article 7 c – paragraph 2

*Text proposed by the Commission**Amendment*

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 *deleted*

Commission shall consult the regulatory body or bodies concerned and, if appropriate, the network of regulatory bodies referred to in Article 57.

Or. fr

Justification

The verification of compliance procedure raises several legal issues. It would award the Commission excessive discretionary powers and powers of constraint and impinge on the powers of the Court of Justice of the European Union laid down in Articles 258 and 260 TFEU.

Amendment 367

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 2

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 368

Joachim Zeller

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 2

Text proposed by the Commission

Amendment

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 where the vertically integrated undertaking is established. The Commission shall consult the regulatory body or bodies concerned, **the relevant competent authorities** and the network of regulatory bodies referred to in Article 57.

Or. de

Justification

In accordance with the subsidiarity principle, and given the nature of the railway system, there must be local-level involvement.

Amendment 369

Erik Bánki

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 3

Text proposed by the Commission

Amendment

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:

deleted

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

c) a 7a. 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.

The Commission shall decide within a reasonable period of time.

Or. hu

Justification

The provisions set out in Article 7c of the proposal would place a considerable administrative burden on the Member States and the infrastructure managers. The provision fails to resolve a number of questions and does not constitute a definitive guarantee of the independence of infrastructure managers, particularly as, according to the provisions of the Article, this is monitored by the railway administration. It follows that the provision on the Commission procedure should be deleted.

Amendment 370
Jean-Jacob Bicep
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c – paragraph 3

Text proposed by the Commission

Amendment

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:

deleted

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

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.

The Commission shall decide within a reasonable period of time.

Or. fr

Amendment 371
Gilles Pargneaux
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c – paragraph 3

Text proposed by the Commission

Amendment

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:

deleted

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

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.

The Commission shall decide within a reasonable period of time.

Or. fr

Justification

The verification of compliance procedure raises several legal issues. It would award the Commission excessive discretionary powers and powers of constraint and impinge on the powers of the Court of Justice of the European Union laid down in Articles 258 and 260 TFEU.

Amendment 372

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7c – paragraph 3

Text proposed by the Commission

Amendment

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:

deleted

(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

(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.

The Commission shall decide within a reasonable period of time.

Or. en

Amendment 373

Joachim Zeller

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 3

Text proposed by the Commission

Amendment

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:

deleted

(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

(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.

Or. de

Justification

As is customary legal practice, penalties should not apply if no request for an independence review has been made or if the Commission has not yet taken a decision on a request. It is disproportionate that suspicion of a breach of the rules should be sufficient. In cases where there is a lack of information, the arrangements customarily used in Treaty infringement proceedings would be sufficient. Immediate exclusion on suspicion of a breach of the rules would amount to punishment in advance.

Amendment 374

Peter van Dalen

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 3 – subparagraph 1

Text proposed by the Commission

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:

Amendment

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 **a** request has been made in accordance with paragraph 1 or pending the examination of the request by the Commission, **and Member States shall set those limits** if **the Commission** decides, in accordance with the procedure referred to in Article 62(2), that:

Or. nl

Amendment 375

Oldřich Vlasák

Proposal for a directive

Article 1 – point 4

Text proposed by the Commission

Amendment

3a. All Member States should have the possibility to limit or revoke access rights of the integrated operators referred to in the article 10, in case the Member States are not allowed by EU institutions to choose freely between the independence of the infrastructure manager from railway transport undertakings and the vertically integrated undertaking.

Or. en

Justification

Since one of the models (the independence of the infrastructure manager from railway transport undertakings and the vertically integrated undertaking) might turn out to be more advantageous for the Member States and railway undertakings based there, all Member States shall be free to choose between these models.

Amendment 376

Erik Bánki

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 4

Text proposed by the Commission

Amendment

4. A 62. 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.

deleted

Or. hu

Justification

The provisions set out in Article 7c of the proposal would place a considerable administrative burden on the Member States and the infrastructure managers. The provision fails to resolve a number of questions and does not constitute a definitive guarantee of the independence of infrastructure managers, particularly as, according to the provisions of the Article, this is monitored by the railway administration. It follows that the provision on the Commission procedure should be deleted.

Amendment 377

Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 4

Text proposed by the Commission

Amendment

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.

deleted

Or. fr

Amendment 378

Gilles Pargneaux

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

Commission that the reasons for the decision do not exist any longer. The Commission shall decide within a reasonable period of time.

Or. fr

Justification

The verification of compliance procedure raises several legal issues. It would award the Commission excessive discretionary powers and powers of constraint and impinge on the powers of the Court of Justice of the European Union laid down in Articles 258 and 260 TFEU.

Amendment 379

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7c – paragraph 4

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 380

Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 5

Text proposed by the Commission

Amendment

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. *deleted*

Or. fr

Amendment 381
Gilles Pargneaux
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 c – paragraph 5

Text proposed by the Commission

Amendment

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. *deleted*

Or. fr

Justification

The verification of compliance procedure raises several legal issues. It would award the Commission excessive discretionary powers and powers of constraint and impinge on the

powers of the Court of Justice of the European Union laid down in Articles 258 and 260 TFEU.

Amendment 382

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 5

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 383

Erik Bánki

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 c – paragraph 5

Text proposed by the Commission

Amendment

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

5. 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

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.

decide, within the time-limits indicated in Article 56(9), on all the necessary measures to remedy the situation.

Or. hu

Justification

The provisions set out in Article 7c of the proposal would place a considerable administrative burden on the Member States and the infrastructure managers. The provision fails to resolve a number of questions and does not constitute a definitive guarantee of the independence of infrastructure managers, particularly as, according to the provisions of the Article, this is monitored by the railway administration. It follows that the provision on the Commission procedure should be deleted.

Amendment 384

Gilles Pargneaux

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Member States shall ***set up, or task the infrastructure manager to set up, a*** Coordination ***Committee for*** each railway network ***or group of networks***. Membership of this committee shall be open at least to the infrastructure manager, ***the Member State representatives***, known applicants in the sense of Article 8(3), ***the representatives of the competent authorities*** 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. ***Representatives of*** the regulatory body concerned shall be invited to the meetings of the Coordination Committee as observers. ***Member States may provide for the participation of railway workers' representatives.***

Justification

Structure must be given to the setting-up of the Coordination Committee. It must not undermine the Member States' discretionary and decision-making powers in the area of railway infrastructure or the principle of business secrecy, either as regards the infrastructure manager or as regards railway undertakings.

Amendment 385

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive**Article 1 – point 4**

Directive 2012/34/EU

7d – paragraph 1

Text proposed by the Commission

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.

Amendment

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, ***bodies responsible for essential functions***, known applicants in the sense of Article 8(3) and, upon their request, potential applicants, their representative organisations, 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.

Justification

Coordination committee is not the right place to introduce worker representation; the Coordination Committee is a mechanism for better governance of the Infrastructure Manager with respect to how it interacts with its direct clients/users, namely railway undertakings; there are other venues for liaising with workers' representatives (namely within undertakings and within the infrastructure manager for their respective employees).

Amendment 386
Bernadette Vergnaud
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 d – paragraph 1

Text proposed by the Commission

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.

Amendment

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), **where relevant, the regional authorities concerned** and, upon their request, potential applicants, their representative organisations, representatives of users of the rail freight and passenger transport services and, where relevant, local authorities. Member State representatives and the regulatory body concerned shall be invited to the meetings of the Coordination Committee as observers.

Or. fr

Justification

In countries in which facets of the public railways service have been regionalised, it should be obligatory for the regional authorities to be represented on the Coordination Committee.

Amendment 387
Philippe De Backer, Ramon Tremosa i Balcells

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 d – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Member States shall ensure that infrastructure managers set up and organise Coordination Committees for each network. Membership of this committee shall be open 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.

Or. en

Amendment 388
Corien Wortmann-Kool

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 d – paragraph 1

Text proposed by the Commission

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

Amendment

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.

of the Coordination Committee as observers. *Alternatively, already existing committees fulfilling the main criteria shall be allowed.*

Or. en

Amendment 389
Isabelle Durant

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 d – paragraph 1

Text proposed by the Commission

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.

Amendment

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 *and, where appropriate, to the charging body and allocation body referred to in Article 7, paragraph 2,* 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.

Or. en

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control, directly or through the establishment of one or more supervisory or executive bodies, over infrastructure charging and train path allocation. And where they exist, the independent

bodies in charge of these essential functions should, of course, be members of the Coordination Committee.

Amendment 390

Joachim Zeller

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 1

Text proposed by the Commission

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.

Amendment

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 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.

Or. de

Justification

Regional and local authorities are important transport policy actors and, as such, must be part of the Coordination Committee.

Amendment 391

Jean-Jacob Bicep, Isabelle Durant

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 1

Text proposed by the Commission

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.

Amendment

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, **and where relevant to the charging and capacity allocation bodies under Article 7(2)**, known applicants in the sense of Article 8(3) and, upon their request, potential applicants, their representative organisations, representatives of users of rail freight and passenger transport services **and of railway sector workers** and regional and local authorities. Member State representatives and the regulatory body concerned shall be invited to the meetings of the Coordination Committee as observers.

Or. fr

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control – directly or through the establishment of one or more supervisory or executive bodies – over infrastructure charging and train path allocation. Where they exist, the independent bodies in charge of these essential functions should, of course, be members of the Coordination Committee.

Amendment 392
Sabine Wils, Jacky Hénin

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7d – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that infrastructure managers set up and organise Coordination Committees for each

Amendment

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.

network. Membership of this committee shall be open at least to the infrastructure **managers or bodies responsible for the essential functions**, 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.

Or. en

Justification

Reliable and efficient independent bodies in charge of the essential functions were set up in several Member States in line with the requirements of Directive 2012/34/EU. The amendment seeks to protect them explicitly and involve them in the Coordination Committees that would be set up.

Amendment 393

Gilles Pargneaux

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 – subparagraph 1 – introductory sentence

Text proposed by the Commission

The Coordination Committee shall make proposals concerning or advising the infrastructure manager and, where appropriate, the Member State on:

Amendment

Without prejudice to the powers of the regulatory body, the Coordination Committee shall submit to the infrastructure manager proposals on:

Or. fr

Justification

Structure must be given to the setting-up of the Coordination Committee. It must not undermine the Member States' discretionary and decision-making powers in the area of

railway infrastructure or the principle of business secrecy, either as regards the infrastructure manager or as regards railway undertakings. The Coordination Committee must not take over the role of the regulatory body.

Amendment 394

Gilles Pargneaux

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 – subparagraph 1 – point (c)

Text proposed by the Commission

Amendment

(c) the content and implementation of the network statement referred to in Article 27; ***deleted***

Or. fr

Justification

Structure must be given to the setting-up of the Coordination Committee and of the European Network of Infrastructure Managers. These must not undermine the Member States' discretionary and decision-making powers in the area of railway infrastructure or the principle of business secrecy, either as regards the infrastructure manager or as regards railway undertakings. The Coordination Committee must not take over the role of the regulatory body, or of the interested parties consulted when developing the network statement pursuant to Article 27 of the Directive.

Amendment 395

Gilles Pargneaux

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 – subparagraph 1 – point (d)

Text proposed by the Commission

Amendment

(d) the charging framework and rules set by the State and the charging scheme established by the infrastructure manager in accordance with Article 29 and the level and structure of infrastructure charges; ***deleted***

Justification

Rules must be laid down to govern the establishment of the Coordination Committee. Establishing the committee must not serve to undermine the Member States' discretionary and decision-making powers in the area of rail infrastructure or the principle of business secrecy, as regards either the infrastructure manager or railway undertakings.

Amendment 396
Isabelle Durant

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7d – paragraph 2 – subparagraph 1 – point (d)

Text proposed by the Commission

(d) the charging framework and rules set by the State and the charging scheme established by the infrastructure manager in accordance with Article 29 and the level and structure of infrastructure charges;

Amendment

(d) the charging framework and rules set by the State and the charging scheme established by the infrastructure manager **or by the charging body** in accordance with Article 29 and the level and structure of infrastructure charges;

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control, directly or through the establishment of one or more supervisory or executive bodies, over infrastructure charging and train path allocation. And where they exist, the independent bodies in charge of these essential functions should perform the functions referred to in Sections 2 and 3 of Chapter IV.

Amendment 397

Jean-Jacob Bicep, Isabelle Durant

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 – subparagraph 1 – point (d)

Text proposed by the Commission

Amendment

(d) the charging framework and rules set by the State and the charging scheme established by the infrastructure manager in accordance with Article 29 and the level and structure of infrastructure charges;

(d) the charging framework and rules set by the State and the charging scheme established by the infrastructure manager **or the charging body** in accordance with Article 29 and the level and structure of infrastructure charges;

Or. fr

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control, directly or through the establishment of one or more supervisory or executive bodies, over infrastructure charging and train path allocation. And where they exist, the independent bodies in charge of these essential functions should perform the functions referred to in Sections 2 and 3 of Chapter IV.

Amendment 398

Silvia-Adriana Țicău

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 – subparagraph 1 – point f

Text proposed by the Commission

Amendment

(f) issues of intermodality;

(f) issues of intermodality, **including the integrated information and ticketing scheme and integrated timetabling**;

Or. ro

Amendment 399

Oldřich Vlasák

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 – subparagraph 1 – point fa (new)

Text proposed by the Commission

Amendment

(fa) issues faced by users of rail freight and passenger transport services, such as service performance or the transparency of prices of rail services;

Or. en

Justification

So that the railway could become a credible alternative to other modes of transport in terms of price and quality, it needs to be seen from the customer's perspective as well.

Amendment 400

Ramon Tremosa i Balcells, Philippe De Backer

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 – subparagraph 1 – point g (a) (new)

Text proposed by the Commission

Amendment

(ga) issues faced by the users of the rail freight and passenger transport services including for instance the service performance, the infrastructure charges, the amount and the transparency of the rail service prices

Or. en

Justification

Consultation of the users of the rail freight and passenger transport services would provide relevant information to the Coordination Committee for performing his tasks as an advisor to the infrastructure manager and the Member State.

Amendment 401

Gilles Pargneaux

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU
Article 7 d – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Coordination Committee shall have the power to request relevant information from the infrastructure manager on points (a) to **(g)** in order to be able to carry out these tasks.

Amendment

The Coordination Committee shall immediately inform the Member State of its proposals. Subject to compliance with the principle of industrial and commercial secrecy, and provided that its requests are reasonable, the Coordination Committee shall have the power to request relevant information from the infrastructure manager on points (a) to **(e)** in order to be able to carry out these tasks

Or. fr

Justification

Rules must be laid down to govern the establishment of the Coordination Committee. Establishing the committee must not serve to undermine the Member States' discretionary and decision-making powers in the area of rail infrastructure or the principle of business secrecy, as regards either the infrastructure manager or railway undertakings.

Amendment 402

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Coordination Committee shall have the power to request relevant information from **the infrastructure manager** on points (a) to (g) in order to be able to carry out these tasks.

Amendment

Without prejudice to commercial confidentiality, The Coordination Committee shall have the power to request relevant information from **any of its members** on points (a) to (g) in order to be able to carry out these tasks.

Or. en

Justification

For some of the points (a) to (g), information will need to be collected from railway undertakings and other members of the Committee as well, not just from the infrastructure manager. As a result, it is also necessary to ensure that commercial confidentiality is respected.

Amendment 403

Gilles Pargneaux

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Without prejudice to the provisions of Article 56(1) and (9), Member States may decide to confer on the Coordination Committee the tasks of monitoring the functioning of the rail sector, conciliation and the settlement of disputes referred to it by rail sector undertakings.

Or. fr

Amendment 404

Gilles Pargneaux

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 3

Text proposed by the Commission

Amendment

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least ***quarterly***. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body concerned ***and the Commission with an indication of the respective positions taken by the***

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least ***annual***. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State ***and*** the regulatory body concerned.

Committee members.

Or. fr

Amendment 405

Erik Bánki

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 3

Text proposed by the Commission

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body concerned and the Commission with an indication of the respective positions taken by the Committee members.

Amendment

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly, **and on the means of decision-making**. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body concerned and the Commission with an indication of the respective positions taken by the Committee members.

Or. hu

Justification

In the case of Article 7d(3) of the proposal, it is necessary to state, in order to ensure the completeness and transparency of the procedure, that the rules of procedure of the Coordination Committee must include rules on its means of decision-making.

Amendment 406

Oldřich Vlasák

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7d – paragraph 3

Text proposed by the Commission

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body concerned and the Commission with an indication of the respective positions taken by the Committee members.

Amendment

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings, which shall be at least quarterly ***and in case of regular consultations with representatives of users of rail freight and passenger transport services at least annually.*** A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body ***as well as users of rail freight and passenger transport services*** concerned and the Commission with an indication of the respective positions taken by the Committee members.

Or. en

Justification

For the railway to become a credible alternative to other modes of transport in terms of price and quality, it needs to be seen from the customer's perspective as well.

Amendment 407

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 3

Text proposed by the Commission

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State,

Amendment

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State

the regulatory body concerned **and the Commission** with an indication of the respective positions taken by the Committee members.

and the regulatory body concerned with an indication of the respective positions taken by the Committee members.

Or. en

Justification

The Coordination Committee is clearly a national body responsible for improving governance of national infrastructure managers. An adequate separation of powers is therefore preferred.

Amendment 408
Ramon Tremosa i Balcells

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 d – paragraph 3

Text proposed by the Commission

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body concerned and the Commission with an indication of the respective positions taken by the Committee **members**.

Amendment

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. ***The rules of procedure shall include the regular consultation of the users of the rail freight and passenger transport services and, in any case, at least once a year.*** A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body ***and users of the rail freight and passenger transport services*** concerned and the Commission with an indication of the respective positions taken by the Committee

Or. en

Justification

Despite of the membership of the users of the rail freight and passenger transport services in the Coordination Committee, it is important to ensure the consultation of the railway users on a regular basis, at least once a year, in the rules of procedure of the Coordination Committee. The annual report of the Coordination Committee shall also be submitted to the railway users.

Amendment 409 **Isabelle Durant**

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 d – paragraph 3

Text proposed by the Commission

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body concerned and the Commission with an indication of the respective positions taken by the Committee members.

Amendment

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager ***and, where appropriate, the charging body and the allocation body, as well as to*** the Member State, the regulatory body concerned and the Commission with an indication of the respective positions taken by the Committee members.

Or. en

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control, directly or through the establishment of one or more supervisory or executive bodies, over infrastructure charging and train path allocation. And where they exist, the independent bodies in charge of these essential functions should, of course, be members of the Coordination Committee.

Amendment 410
Jean-Jacob Bicep, Isabelle Durant
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 d – paragraph 3

Text proposed by the Commission

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body concerned and the Commission with an indication of the respective positions taken by the Committee members.

Amendment

3. The Coordination Committee shall draw up rules of procedure that include, in particular, rules on participation in and frequency of meetings which shall be at least quarterly. A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager **and, where appropriate, the charging body and the train path allocating body, and to** the Member State, the regulatory body concerned and the Commission with an indication of the respective positions taken by the Committee members.

Or. fr

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control, directly or through the establishment of one or more supervisory or executive bodies, over infrastructure charging and train path allocation. And where they exist, the independent bodies in charge of these essential functions should, of course, be members of the Coordination Committee.

Amendment 411
Joachim Zeller
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 d – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The infrastructure manager shall appoint from among its staff a

representative, who shall be responsible for relations with local and regional authorities. That representative shall be in a position to answer queries from a local or regional authority, on behalf of the infrastructure manager, within five days.

Or. de

Justification

The enhanced powers for infrastructure managers must go hand in hand with more responsibility at international level, via the infrastructure manager network, but also at local level. The representative, acting as a central contact point for local and regional authorities, must be in a position to answer queries promptly.

Amendment 412
Sabine Wils, Jacky Hénin

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7e – title

Text proposed by the Commission

Amendment

European Network of Infrastructure Managers

Cooperation among Infrastructure Managers and concerned Independent bodies

Or. en

Justification

Starting now with a European Network of Infrastructure Managers is not sufficiently mature. It is worthwhile to allow more analysis engaging the European Commission if appropriate to deliver a proposal by 2022 assessing the cooperation level as performed in the existing corridors whilst respecting the principles of subsidiarity and separation of powers as in the Member States involving the Independent bodies where relevant performing the essential functions of the infrastructure manager.

Amendment 413
Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Justification

A compulsory network is premature. Infrastructure managers can cooperate on the basis of Articles 37 and 40 of directive 2012/34. The Commission can carry out a more detailed and comprehensive analysis after proper implementation of the existing provisions.

Amendment 414

Gilles Pargneaux

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

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***

Member States shall ensure that infrastructure managers participate and cooperate in a network to develop the Union rail infrastructure, ***in keeping with the rail transport guidelines laid down by each Member State.***

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.

Or. fr

Justification

Rules must be laid down to govern the establishment of the European network of infrastructure managers. Establishing the committee must not serve to undermine the Member States' discretionary and decision-making powers in the area of rail infrastructure or the principle of business secrecy, as regards either the infrastructure manager or railway undertakings. Close attention should be paid to the committee's composition and some of its tasks should be specified.

Amendment 415
Brian Simpson

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1– subparagraph 1

Text proposed by the Commission

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.

Amendment

Member States shall ensure that infrastructure managers participate and cooperate in a network to develop the Union rail infrastructure, in particular to ensure **(i)** 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 (ii) the facilitation of efficient and effective cross border passenger services within the EU.**

Or. en

Justification

Coordination is needed among infrastructure managers to facilitate cross-border travel.

Amendment 416

Phil Bennion, Philippe De Backer

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1 – subparagraph 1

Text proposed by the Commission

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.

Amendment

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. ***This network shall also address efficiently cross-border issues such as track-access charges.***

Or. en

Justification

There is a need for infrastructure managers to cooperate with respect to track-access charges to give incentives to railway undertakings to operate on cross-border routes.

Amendment 417

David-Maria Sassoli, Franco Frigo

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

article 7 e – paragraph 1 – subparagraph 1

Text proposed by the Commission

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.

Amendment

Member States shall ensure that infrastructure managers participate and cooperate in a network to develop the Union rail infrastructure, in particular to ensure **(i)** 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 (ii) the facilitation of efficient and effective cross border passenger services within the EU.**

a) The network shall also develop common framework principles for charging where a cross border passenger service will or does operate on more than one network as defined in Article 37 and for allocation of capacity as defined in Article 40.

b) These common principles shall be subject to the opinion of the network of regulatory bodies referred to in [new Article 57-3bis]. The principles shall be published by the network of infrastructure managers.

c) Where an applicant believes that the principles adopted according to Article 7e 1 ter are hindering the development of cross-border services, it may submit a request for a regulatory opinion directly to the Network of regulatory bodies. The network of regulatory bodies shall then issue an opinion as referred to in [new Article 57-3bis], aiming at facilitating rather than hindering cross-border services. The opinion shall be communicated to the European Network of Infrastructure Managers not later than one month after the request is received.

Amendment 418

Joachim Zeller

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1 – subparagraph 1

Text proposed by the Commission

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.

Amendment

Within two years following transposition of this Directive, Member States shall **require** infrastructure managers to 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 efficiency of regional cross-border cooperation within railway transport.**

Or. de

Justification

The European network of infrastructure managers will make it possible to tackle cross-border transport operation problems at the right level. Local authorities must also be involved.

Amendment 419

Sabine Wils, Jacky Hénin

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that

Amendment

Assessing the need for further measures

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.

to enhance cooperation between infrastructure managers without undermining the existing positive synergy effects within the vertically integrated undertakings, the European Commission, by 31 December 2022, in light of the experience gained from the 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, *shall if appropriate propose legislative measures. These measures based on the experience gained from the implementation of Articles 37 and 40 of this directive is aimed to enhance cooperation between infrastructure managers for the purpose of supporting growth in rail's modal share while respecting the principles of subsidiarity and proportionality.*

Or. en

Justification

Starting now with a European Network of Infrastructure Managers is not sufficiently mature. It should be worthwhile to allow more analysis engaging the European Commission if appropriate to deliver a proposal by 2022 assessing the cooperation level as performed in the existing rail freight and ERTMS network corridors and the existing activities and services of RailNet Europe whilst respecting the principles of subsidiarity and separation of powers as in the different Member States.

Amendment 420

Karim Zéribi

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall ensure that

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.*

infrastructure managers participate and cooperate in a network to develop the Union rail infrastructure, in particular to ensure implementation of the trans-European transport network, *in keeping with the rail transport guidelines laid down by each Member State.*

Or. fr

Justification

Self-explanatory.

Amendment 421

Jean-Jacob Bicep, Sandrine Bélier

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1 – subparagraph 1

Text proposed by the Commission

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.

Amendment

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, the European Rail Traffic Management System (ERTMS) deployment plan laid down in Decision 2012/88/EU *and the facilitation of transfrontier transport services in the Union.*

Or. fr

Amendment 422
Brian Simpson

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

Text proposed by the Commission

Amendment

1(a) The network shall also develop common framework principles for charging for cross border passengers operating on more than one network as defined in Article 37 and for allocation of capacity as defined in Article 40.

Or. en

Justification

Coordination of infrastructure managers is needed to facilitate cross-border travel.

Amendment 423
Gilles Pargneaux
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 e – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

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. ***deleted***

Or. fr

Justification

Rules must be laid down to govern the establishment of the European network of

infrastructure managers. Establishing the network must not serve to undermine the Member States' discretionary and decision-making powers in the area of rail infrastructure. The Commission should have only the option of adopting implementing measures on the basis of a proposal from the network.

Amendment 424

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 425

Sabine Wils, Jacky Hénin

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1, subparagraph 2

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Justification

The role of the Commission is clarified in paragraph 2 of Article 40. There is no need for an additional official involvement.

Amendment 426

Isabelle Durant

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1 – subparagraph 2

Text proposed by the Commission

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.

Amendment

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 ***and, where appropriate, charging bodies and allocation bodies.***

Or. en

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control, directly or through the establishment of one or more supervisory or executive bodies, over infrastructure charging and train path allocation. Where they exist, the independent bodies in charge of these essential functions should be members of the European Network of Infrastructure Managers.

Amendment 427

Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1 – subparagraph 2

Text proposed by the Commission

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.

Amendment

The Commission shall be a member of the Network. It shall **take part in** the work of the Network and make recommendations to the Network, as appropriate. It shall ensure the active cooperation of the appropriate infrastructure managers **and, where appropriate, the infrastructure charging and train path allocating bodies.**

Or. fr

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control, directly or through the establishment of one or more supervisory or executive bodies, over infrastructure charging and train path allocation. Where they exist, the independent bodies in charge of these essential functions should be members of the European Network of Infrastructure Managers.

Amendment 428

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

In light of the experience gained from the 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, as well as the experience gained from the implementation of Articles 37 and 40 of this directive with respect to infrastructure charging and capacity allocation across more than one

network, and based on a consultation of infrastructure managers and railway undertakings, the European Commission shall, if appropriate, propose legislative measures, aiming at enhancing cooperation between infrastructure managers for the purpose of supporting growth in rail's modal share while respecting the principles of subsidiarity and proportionality, and shall assess the impact of any such measures.

Or. en

Justification

The Commission proposal for a network is not based on a sufficiently mature analysis and seems to be purely politically based. Any decisions should be economically driven and based on analyses that would give a full and fair reflection of all relevant issues.

Amendment 429

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 2

Text proposed by the Commission

Amendment

2. The Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation, maintenance, renewals, enhancements, investments and financial efficiency.

deleted

Or. en

Amendment 430
Sabine Wils, Jacky Hénin

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7e – paragraph 2

Text proposed by the Commission

Amendment

2. The Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation, maintenance, renewals, enhancements, investments and financial efficiency.

deleted

Or. en

Justification

See justification in amendment to Article 7e par.1

Amendment 431
Oldřich Vlasák

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 e – paragraph 2

Text proposed by the Commission

Amendment

2. The Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation,

2. Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation,

maintenance, renewals, enhancements, investments *and financial efficiency*.

maintenance, renewals, enhancements, investments, *financial efficiency as well as transparency of the charging framework and charging rules*.

Or. en

Amendment 432

Ramon Tremosa i Balcells, Philippe De Backer

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 2

Text proposed by the Commission

2. The Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation, maintenance, renewals, enhancements, investments and financial efficiency.

Amendment

2. The Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation, maintenance, renewals, enhancements, investments, *transparency of the charging framework and of the charging rules* and financial efficiency.

Or. en

Justification

The benchmarking must also include the transparency obligation referred to in Article 29(3).

Amendment 433

Isabelle Durant

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 2

Text proposed by the Commission

2. The Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation, maintenance, renewals, enhancements, investments and financial efficiency.

Amendment

2. The Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency **and effectiveness** of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation, maintenance, renewals, enhancements, investments and financial efficiency.

Or. en

Justification

The efficiency of an organisation or process is the ratio of how much it produces to how much it consumes. Its effectiveness is the ratio of how much it actually achieves to what it produces. Given the tendency of monopolists to misallocate their resources ("gold-plating" issues) as much as to underuse them (productivity issues), both measures ought to be considered equally important in monitoring the functioning of infrastructure managers.

Amendment 434

Jean-Jacob Bicep, Isabelle Durant

Proposal for a directive

Article 1 – point 4

Directive 2012/34/EU

Article 7 e – paragraph 2

Text proposed by the Commission

2. The Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation, maintenance, renewals, enhancements, investments and financial efficiency.

Amendment

2. The Network shall participate in the market monitoring activities referred to in Article 15 and benchmark the efficiency **and effectiveness** of infrastructure managers on the basis of common indicators and quality criteria, such as the reliability, capacity, availability, punctuality and safety of their networks, asset quality and utilisation, maintenance, renewals, enhancements, investments and financial efficiency.

Justification

The efficiency of an organisation or process is the ratio of how much it produces to how much it consumes. Its effectiveness is the ratio of how much it actually achieves to what it produces. Given the tendency of monopolists to misallocate their resources ('gold-plating' issues) as much as to underuse them (productivity issues), both measures ought to be considered equally important in monitoring the functioning of infrastructure managers.

Amendment 435**Gilles Pargneaux****Proposal for a directive****Article 1 – point 4**

Directive 2012/34/EU

Article 7 e – paragraph 3

*Text proposed by the Commission**Amendment*

3. The Commission may adopt measures setting out the common principles and practices of the Network, in particular to ensure consistency in benchmarking, and the procedures to be followed for cooperation in the Network. Those measures shall be adopted by means of an implementing act in accordance with the procedure referred to in Article 62(3). *deleted*

Justification

Rules must be laid down to govern the establishment of the European network of infrastructure managers. Establishing the network must not serve to undermine the Member States' discretionary and decision-making powers in the area of rail infrastructure. The Commission should have only the option of adopting implementing measures on the basis of a proposal from the network.

Amendment 436**Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada****Proposal for a directive****Article 1 – point 4**

Directive 2012/34/EU
Article 7 e – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission may adopt measures setting out the common principles and practices of the Network, in particular to ensure consistency in benchmarking, and the procedures to be followed for cooperation in the Network. Those measures shall be adopted by means of an implementing act in accordance with the procedure referred to in Article 62(3). *deleted*

Or. en

Amendment 437
Sabine Wils, Jacky Hénin

Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 e – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission may adopt measures setting out the common principles and practices of the Network, in particular to ensure consistency in benchmarking, and the procedures to be followed for cooperation in the Network. Those measures shall be adopted by means of an implementing act in accordance with the procedure referred to in Article 62(3). *deleted*

Or. en

Justification

See justification in amendment to Article 7e par.1

Amendment 438
Jean-Jacob Bicep
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 e – paragraph 3

Text proposed by the Commission

3. The Commission may *adopt measures setting out the common principles and practices of the Network, in particular to ensure consistency in benchmarking, and the procedures to be followed for cooperation in the Network. Those measures shall be adopted by means of an implementing act in accordance with the procedure referred to in Article 62(3).*'

Amendment

3. The Commission may, *if appropriate, draw up legislative proposals designed to improve cooperation among infrastructure managers which are members of the network.*

Or. fr

Amendment 439
Karim Zéribi
Proposal for a directive
Article 1 – point 4
Directive 2012/34/EU
Article 7 e a (new)

Text proposed by the Commission

Vertically integrated undertakings managing specific investment projects as referred to in Article 32(3) of this Directive which face direct competition from other modes of transport shall not be subject of the provisions of Articles 7 and 7a to c.

Amendment

Or. fr

Justification

Self-explanatory.

Amendment 440
Ramon Tremosa i Balcells

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

Text proposed by the Commission

Amendment

With a view to preventing discrimination against applicants, the regulatory body referred to in Article 55 of this Directive shall give prior approval of any change to the structure or the level of charges for access to railway infrastructure and for access to service facilities operated by it and of such a framework agreement referred to in Article 42. The regulatory body shall and control a framework agreement in force on its own initiative. An applicant shall also have the right to appeal to the regulatory body if it believes that it has been unfairly treated, discriminated against or is in any other way aggrieved by any change to the structure or the level of charges for access, a framework agreement, scheduled or unscheduled maintenance work or any other decision of the infrastructure manager. In the event of an appeal against a framework agreement, the regulatory body shall either confirm that no modification of the framework agreement is required, or it shall require modification of that framework agreement in accordance with directions specified by the regulatory body, not later than one month after the appeal is received. The infrastructure manager and the railway undertaking shall comply as soon as is materially feasible, and in any case not later than one month after receiving notification of the request from the regulatory body. Whilst performing the functions described in this paragraph, the regulatory body shall pay particular attention to the protection of business

secrets.

Or. en

Amendment 441
Jörg Leichtfried
Proposal for a directive
Article 1 – point 5

Text proposed by the Commission

Amendment

5. [...]

deleted

Or. de

Justification

There is no link between customer satisfaction and the degree of liberalisation of the sector, nor is there a link between the degree of liberalisation of the sector and the performance of (safe and environmentally sound) rail networks as reflected in a substantial market share. What is really happening is that the railways as an integrated system are being done away with. The main losers are the railways' main customers: daily commuters. The further opening-up of the market will lead only to cherry-picking and make the railways more expensive and less efficient.

Amendment 442
Marita Ulvskog
Proposal for a directive
Article 1 – point 5

Text proposed by the Commission

Amendment

5. [...]

deleted

Or. sv

Amendment 443
Saïd El Khadraoui

Proposal for a directive
Article 1 – point 5 – point a
Directive 2012/34/EU
Article 10 – paragraph 2

Text proposed by the Commission

2. Railway undertakings shall be granted, under equitable, non-discriminatory and transparent conditions, the right of access to railway infrastructure in all Member States for the purpose of operating all types of rail passenger services. Railway undertakings shall have the right to pick up passengers at any station and set them down at another. That right shall include access to infrastructure connecting service facilities referred to in point 2 of Annex II.

Amendment

2. Railway undertakings shall be granted, under equitable, non-discriminatory and transparent conditions, the right of access to railway infrastructure in all Member States for the purpose of operating all types of rail passenger services. Railway undertakings shall have the right to pick up passengers at any station and set them down at another. That right shall include access to infrastructure connecting service facilities referred to in point 2 of Annex II. ***Without prejudice to international passenger services, this provision shall not require a Member State to grant the right of access to railway undertakings and their directly or indirectly controlled subsidiaries, licensed in a Member State where access rights of a similar nature are not granted.***

Or. en

Justification

This reciprocity clause should ensure that open access rights are only granted to operators from Member States where open access rights are equally granted. International services are not affected by this provision.

Amendment 444
Sabine Wils, Jacky Hénin

Proposal for a directive
Article 1 – point 5 – point a
Directive 2012/34/EU
Article 10 – paragraph 2

Text proposed by the Commission

2. Railway undertakings shall be granted, under equitable, non-discriminatory and transparent conditions, the right of access to railway infrastructure in all Member

Amendment

2. Railway undertakings shall be granted, under equitable, non-discriminatory and transparent conditions, the right of access to railway infrastructure in all Member

States for the purpose of operating **all types of** rail passenger services. Railway undertakings shall have the right to pick up passengers at any station and set them down at another. That right shall include access to infrastructure connecting service facilities referred to in point 2 of Annex II.

States for the purpose of operating **international** rail passenger services. Railway undertakings shall have the right to pick up passengers at any station and set them down at another. That right shall include access to infrastructure connecting service facilities referred to in point 2 of Annex II.

Or. en

Justification

It is worthwhile to keep the reference to international rail passenger service as defined in Art.3 point 5 of Directive 2012/34.

Amendment 445 Roberts Zile

Proposal for a directive
Article 1 – point 5 - point aa (new)
Directive 2012/34/EU
Article 10 – paragraph 2 a and 2 b (new)

Text proposed by the Commission

Amendment

(aa) The following new 2a and 2b paragraphs are added:

2a A Member State shall not be required to grant any right of access to infrastructure for the purpose of operating any type of services to railway undertakings where the control belongs directly or indirectly to a person or persons from a third country or third countries where access rights to infrastructure and service facilities, on conditions that are of a similar nature to those specified in this directive, are not granted to Union undertakings. For the purposes of this paragraph, control shall be constituted by rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising

decisive influence on an undertaking, in particular by:

(a) ownership or the right to use all or part of the assets of an undertaking;

(b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking.

2b (new) A Member State shall not be required to grant any right of access to infrastructure for the purpose of operating any type of services to railway undertakings established in third countries where access rights to infrastructure and service facilities, on conditions that are of a similar nature to those specified in this directive, are not granted to Union undertakings.

Or. en

Justification

The question of access to passenger and freight market for undertakings controlled from third countries needs to be addressed. It is both necessary and fair to ensure that balanced conditions exist on the basis of reciprocity. In the absence of such conditions, no individual Member State should be required to open its market to undertakings established in third countries or to undertakings directly or indirectly controlled by persons from third countries. The definition is taken from Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings.

Amendment 446

Antonio Cancian

Proposal for a directive

Article 1 – point 5 – point a a (new)

Directive 2012/34/EU

Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(aa) The following paragraph is added:

‘2a. Member States must not be required to grant any right of access to undertakings which are directly or

indirectly controlled by any person or persons from a third country or countries in which rights of access to infrastructure and service facilities, similar to those set out in this Directive, are not granted to Union undertakings. For the purpose of this paragraph, ‘control’ shall be defined as consisting of rights, contracts or any other means by which, either separately or in combination, and having regard to any relevant considerations of fact or law, provide the opportunity of exerting a decisive influence on an undertaking, in particular through:

(a) ownership or the right to use all or part of the assets of an undertaking;

(b) rights or contracts which confer decisive influence on the composition, voting or deliberations of the social organs of an undertaking.’

Or. it

Amendment 447
Sabine Wils, Jacky Hénin

Proposal for a directive
Article 1 – point 5 – point b
Directive 2012/34/EU
Article 10 – paragraphs 3 and 4

Text proposed by the Commission

Amendment

(b) paragraphs 3 and 4 are deleted.

deleted

Or. en

Justification

The original text of paragraphs 3 and 4 is to be kept in order to comply with request received according to paragraph 2.

Amendment 448
Antonio Cancian

Proposal for a directive
Article 1 – point 6 – point a
Directive 2012/34/EU
Article 11 – paragraph 1

Text proposed by the Commission

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.

Amendment

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.

Competent authorities and infrastructure managers shall give advance notice to all interested parties of capacity requests pursuant to Regulation 1370/2007 that may conflict with the rights of access pursuant to Article 10 of this Directive.

All passenger services that are not part of a public service contract shall be referred to as open access services.

If a competent authority creates a new public service contract, or extends the scope of an existing one, in the sense of using more infrastructure capacity than was previously used, the undertakings that provide existing open access services which may be affected by that decision shall not be subject to any limitations in access rights. These undertakings shall receive advance notice of the decision and, if justified, financial compensation based on a decision of the regulatory body, based on a procedure analogous to the one defined in this article for determining a prejudice to economic equilibrium

Or. en

Amendment 449
Bernadette Vergnaud
Proposal for a directive
Article 1 – point 6 – point a
Directive 2012/34/EU
Article 11 – paragraph 1

Text proposed by the Commission

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.

Amendment

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.

Where a public service contract is awarded by means of a competitive tender procedure, in keeping with Union law, Member States may, in accordance with Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007, limit the right of access provided for in Article 10(2) of this Directive for the duration of the public service contract in question between a place of departure and a destination which are covered by the public service contract. Information concerning the limitation of this right of access shall be made public when the competitive tender procedure for the service contract is launched. The limitations referred to in this paragraph may not have the effect of restricting the right to take on passengers at a station situated on the route of an international service and to set them down at another, including at stations located in the same Member State, unless the exercise of that right is likely to compromise the economic equilibrium and/or the achievement of the service-quality objectives of the public service

contract in question.

Or. fr

Amendment 450
Gilles Pargneaux
Proposal for a directive
Article 1 – point 6 – point a
Directive 2012/34/EU
Article 11 – paragraph 1

Text proposed by the Commission

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.

Amendment

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.

Where a public service contract is awarded in accordance with Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road, the competent authorities may limit the right of access provided for in Article 10(2) of this Directive for the duration of the public service contract in question between a place of departure and a destination which are covered by the public service contract. The information on the basis of which the right of access will be limited shall be made public when the publication provided for in Article 7(2) takes place. The limitations referred to in this paragraph shall not have the effect of restricting the right to take on passengers at a station situated on the route of an international service and to set them down at another, including at stations located in the same Member State, unless the exercise of that right is

likely to compromise the economic equilibrium of the public service contract in question.

Or. fr

Justification

The protection of all the public service contracts awarded in accordance with Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road must be guaranteed.

Amendment 451

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 6 – point a

Directive 2012/34/EU

Article 11 – paragraph 1

Text proposed by the Commission

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.

Amendment

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.

Competent authorities and infrastructure managers shall give advance notice to all interested parties of capacity requests pursuant to Regulation 1370/2007 that may conflict with the rights of access pursuant to Article 10 of this Directive.

All passenger services that are not part of a public service contract shall be referred to as open access services.

If a competent authority creates a new public service contract, or extends the scope of an existing one, in the sense of using more infrastructure capacity than was previously used, the undertakings

that provide existing open access services which may be affected by that decision shall not be subject to any limitations in access rights. These undertakings shall receive advance notice of the decision and, if justified, financial compensation based on a decision of the regulatory body, based on a procedure analogous to the one defined in this article for determining a prejudice to economic equilibrium.

Or. en

Justification

The Commission's proposal aims to prevent a compromise on the economic equilibrium of a public service contract resulting from open access entry. Conversely, protection is also needed for the operators of open access services.

Amendment 452

Philippe De Backer, Ramon Tremosa i Balcells

Proposal for a directive

Article 1 – point 6 – point a

Directive 2012/34/EU

Article 11 – paragraph 1

Text proposed by the Commission

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right **would compromise** the economic equilibrium of the public service contract or contracts in question.

Amendment

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right **compromises** the economic equilibrium of the public service contract or contracts in question.

Or. en

Amendment 453
Jean-Jacob Bicep, Isabelle Durant
Proposal for a directive
Article 1 – point 6 – point a
Directive 2012/34/EU
Article 11 – paragraph 1

Text proposed by the Commission

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would **compromise** the economic equilibrium of the public service contract or contracts in question.

Amendment

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would **affect** the economic equilibrium of the public service contract or contracts in question **or compromise the quality of the service provided.**

Or. fr

Justification

Given their modest share in total passenger traffic and their focus on long-distance relations, international passenger trains tend to have a limited impact on the revenue of domestic passenger train operators. The liberalisation of domestic passenger services could have a much greater impact on the financing and network integration of services operated under public service obligations and therefore calls for clearer and stricter safeguards against cherry-picking and network fragmentation.

Amendment 454
Sabine Wils, Jacky Hénin

Proposal for a directive
Article 1 – point 6 – point a
Directive 2012/34/EU
Article 11 – paragraph 1

Text proposed by the Commission

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when

Amendment

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when

one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium *of the* public service contract or contracts in question.

one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium **and the social cohesion and right to mobility as required and adopted in the concerned** public service contract or contracts in question.

Or. en

Justification

Not only the economic equilibrium has to be considered but the social and the cohesion impacts of the public service contracts.

Amendment 455

Karim Zéribi

Proposal for a directive

Article 1 – point 6 – point a

Directive 2012/34/EU

Article 11 – paragraph 1

Text proposed by the Commission

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.

Amendment

1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.

Where a public service contract is awarded in accordance with Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road, the competent authorities may limit the right of access provided for in Article 10(2) of this Directive for the duration of the public service contract in question. These limitations shall not have the effect of restricting the right to take on passengers

at a station situated on the route of an international service and to set them down at another, including at stations located in the same Member State, unless the exercise of that right is likely to compromise the economic equilibrium of the public service contract in question.

Or. fr

Justification

Self-explanatory.

Amendment 456
Phil Bennion, Philippe De Backer

Proposal for a directive
Article 1 – point 6 – point a
Directive 2012/34/EU
Article 11 – paragraph 1 – subparagraph 1a (new)

Text proposed by the Commission

Amendment

Member States may limit the right of creating new or altered passenger services under public service contracts when the new or altered public service contracts compromise the economic equilibrium of the existing services provided by railway undertakings which have been granted access to railway infrastructure according to Article 10, paragraph 2 of this Directive;

Or. en

Justification

Member States may limit the right of creating a new or altered public service contract if the regulatory body demonstrates the potential economic impact of such contracts on a service provided by an open access operator.

Amendment 457

Bernadette Vergnaud

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

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):

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, **taking account of the cumulative effect of the services provided on the basis of free access**. They shall determine this after a request from any of the following, submitted within **two months** from the information on the intended passenger service referred to in Article 38(4):

Or. fr

Justification

A regional public service contract will not necessarily be adversely affected by an individual request for cabotage on national or international services, but the cumulative impact of such services may be negative. What is more, the one-month time limit is too short to analyse the implications and raise objections to a new transport service.

Amendment 458

Gilles Pargneaux

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

In order to determine whether the economic equilibrium of a public service contract would be compromised, the relevant regulatory body or bodies referred

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):

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 **two months** from the information on the intended passenger service referred to in Article 38(4):

Or. fr

Justification

It is essential that the time-limits for completion of the assessment of the impact on a public service contract should be adjusted, so that it can be carried out as effectively as possible and in the interests of all the actors concerned (supervisory body, free-access operator, public service operator and competent authority).

Amendment 459

Jörg Leichtfried

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

'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):

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 criteria **pre-determined by the Member States. These criteria shall not be subject to review pursuant to Article 8 of the [Rail Safety Directive] or pursuant to Chapter 5 of the [Agency Regulation].** 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):

Or. de

Justification

It is not clear who will set the criteria. The Member States are best placed to assess the overall economic situation and take effective action as required. There are significant regional differences as regards the requirements to be met by services of general interest and public services. In keeping with the subsidiarity principle, therefore, the criteria should be set by the Member States.

Amendment 460

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 6 – point b

Directive 2012/34/EU

Article 11 – paragraph 2

Text proposed by the Commission

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):***

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. ***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 shall 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, if any, shall not be substantial.***

Or. en

Justification

An alternative definition of economic equilibrium is more specific about financial conditions of the market.

Amendment 461

Phil Bennion, Philippe De Backer

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

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):

Amendment

In order to determine whether the economic equilibrium of a public service contract *or of a service provided by railway undertakings which have been granted access to railway infrastructure according to Article 10, paragraph 2 of this Directive in case of creation of a new public service contract or alteration of an existing 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):

Or. en

Justification

The potential economic impact of a new public service contract or the extension of the scope of an existing public service contract on a route where an open access operator is providing a service should also be assessed by the regulatory bodies.

Amendment 462

Joachim Zeller

Proposal for a directive

Article 1 – point 6 – point d

Directive 2012/34/EU

Article 11 – paragraph 2 – subparagraph 1

Text proposed by the Commission

'In order to determine whether the economic equilibrium of a public service

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):

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 **two months** from the information on the intended passenger service referred to in Article 38(4):

Or. de

Amendment 463

Jean-Jacob Bicep, Isabelle Durant

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

'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):

Amendment

In order to determine whether the economic equilibrium of a public service contract, ***i.e. the cost-revenue ratio, or the quality of the service provided*** would be **affected**, 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, ***taking account of the cumulative effect of the services provided on the basis of free access***. 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):

Or. fr

Justification

The only way to be sure that 'the economic equilibrium of a public service contract' will not have to be interpreted as the level of revenues at which the revenues of a public service operator equal its costs (and under which it essentially faces bankruptcy) is to clearly specify in the Directive that what it means is any (preferably positive) balance between revenues and

costs that exists before the start of a new rail passenger service on one or more of the same routes or alternative ones.

Amendment 464

Phil Bennion, Philippe De Backer

Proposal for a directive

Article 1 – point 6 – point b

Directive 2012/34/EU

Article 11 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) new the railway undertaking which has been granted access to railway infrastructure according to Article 10, paragraph 2 of this Directive

Or. en

Justification

The potential economic impact of a new public service contract or the extension of the scope of an existing public service contract on a route where an open access operator is providing a service should also be assessed by the regulatory bodies.

Amendment 465

Sabine Wils, Jacky Hénin

Proposal for a directive

Article 1 – point 6 – point b

Directive 2012/34/EU

Article 11 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) new the civil society representatives including both the concerned local public authorities and the customer associations.

Or. en

Justification

Necessary clarification in order to integrate all the concerned stakeholders and actors and to enhance the mandate to the competent authorities.

Amendment 466

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 6 – point b

Directive 2012/34/EU

Article 11 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

The relevant regulatory body shall carry out the economic analysis and issue the reasoned decision referred to in this paragraph following a request from the railway undertaking seeking access, provided that the request is submitted not more than a reasonable number of years before the intended start of service. Without prejudice to paragraph 3, the decision of the regulatory body shall be binding on all parties concerned for a reasonable number of years after its notification, or until the expiry date of the public service contract, whichever is sooner. The competent authority that awarded the public service contract shall compensate the railway undertaking performing the public service contract for the losses of revenue it incurs as a result of the new service until the date of expiry of the PSO contract.

Or. en

Justification

The provisions currently in place could lead to significant commercial uncertainty because the economic equilibrium test could be concluded only shortly before the planned start of service, and given the long lead time to procure rolling stock and prepare for operations, a regulatory decision to restrict access could be very disruptive, thus increasing commercial risk and discouraging market entry.

Amendment 467
Antonio Cancian

Proposal for a directive
Article 1 – point 6 – point b
Directive 2012/34/EU
Article 11 – paragraph 2 - subparagraph 2a (new)

Text proposed by the Commission

Amendment

The relevant regulatory body shall also carry out the economic analysis and issue the reasoned decision referred to in this paragraph following a request from the railway undertaking seeking access, provided that the request is submitted not more than a reasonable number of years before the intended start of service. Without prejudice to paragraph 3, the decision of the regulatory body shall be binding on all parties concerned for a reasonable number of years after its notification, or until the expiry date of the public service contract, whichever is sooner. 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 shall 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, shall not be substantial. The competent authority that awarded the public service contract shall compensate the railway undertaking performing the public service contract for the losses of revenue it incurs as a result of the new service until the date of expiry of the PSO contract.

Or. en

Amendment 468
Phil Bennion, Philippe De Backer

Proposal for a directive
Article 1 – point 6 – point c
Directive 2012/34/EU
Article 11 – paragraph 3 – point (d)

Text proposed by the Commission

d) the railway undertaking seeking access.

Amendment

d) the railway undertaking seeking access
***or which has been granted access to
railway infrastructure according to
Article 10, paragraph 2 of this Directive***

Or. en

Justification

The potential economic impact of a new public service contract or the extension of the scope of an existing public service contract on a route where an open access operator is providing a service should also be assessed by the regulatory bodies.

Amendment 469
Erik Bánki
Proposal for a directive
Article 1 – point 6 – point c
Directive 2012/34/EU
Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

In case the regulatory body decides that the economic equilibrium of a public contract would be compromised by the intended passenger service referred to in Article 38(4), it shall indicate possible changes to such service which would ensure that the conditions to grant the right of access provided for in Article 10(2) are met.';

Amendment

deleted

Or. hu

Justification

With regard to Article 11(3) of the proposal, it is not the task of the regulatory body to indicate how access to the service is to be ensured. Any change to the service is the result of a commercial decision which may have consequences for other services provided by the railway company in question and the overall management of the company, the extent of which cannot be assessed by the administrative body.

Amendment 470

Jean-Jacob Bicep, Isabelle Durant

Proposal for a directive

Article 1 – point 6 – point c

Directive 2012/34/EU

Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

In case the regulatory body decides that the economic equilibrium of a public contract would be **compromised** by the intended passenger service referred to in Article 38(4), it shall indicate possible changes to such service which would ensure that the conditions to grant the right of access provided for in Article 10(2) are met.

Amendment

In case the regulatory body decides that the economic equilibrium of a public contract **or the quality of the service provided** would be **affected** by the intended passenger service referred to in Article 38(4), it shall indicate **to the extent that this is feasible** possible changes to such service which would ensure that the conditions to grant the right of access provided for in Article 10(2) are met.

Or. fr

Justification

It may well be impossible to plan a new passenger service on a given route without threatening to affect the economic equilibrium of a public service contract covering that route or an alternative route. The obligation imposed on the regulatory body in this paragraph should therefore be to 'try to indicate' ways to achieve this rather than 'to indicate' such ways no matter what. Besides, this paragraph will nullify Article 11 if it does not explicitly refer to Article 11(2) as amended above.

Amendment 471

Phil Bennion, Philippe De Backer

Proposal for a directive

Article 1 – point 6 – point c

Directive 2012/34/EU

Article 11 – paragraph 3 – subparagraph 2a (new)

In case the regulatory body decides that the economic equilibrium of a service provided by railway undertakings which have been granted access to railway infrastructure according to Article 10, paragraph 2 of this Directive, would be compromised by the intended new or altered public service contract, it shall indicate possible changes to such contracts or make recommendations for compensation of the affected railway undertaking.

Or. en

Justification

The potential economic impact of a new public service contract or the extension of the scope of an existing public service contract on a route where an open access operator is providing a service should also be assessed by the regulatory bodies.

Amendment 472

Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 6 – point c a (new)

Directive 2012/34/EU

Article 11 – paragraph 4

(ca) paragraph 4 is amended as follows:

On the basis of the experience gained by regulatory bodies, competent authorities and railway undertakings and of the activities of the network as referred to in Article 57(1), the Commission shall adopt, by 16 December 2016 at the latest, measures setting out the details of the procedure and criteria to be followed for the application of paragraphs 1, 2 and 3 of this Article. These delegated acts shall be adopted in accordance with the

procedure referred to in Article 60.

Or. fr

Amendment 473
Sabine Wils, Jacky Hénin

Proposal for a directive
Article 1 – point 6 – point d
Directive 2012/34/EU
Article 11 – paragraph 5

Text proposed by the Commission

Amendment

(d) paragraph 5 is deleted.

deleted

Or. en

Justification

The requirement provided for in paragraph 5 has to be kept as it is also connected with provisions set in Regulation 1370/2007. Opening the market does not imply deleting such provisions relating to international passenger services when in conflict with public service contracts.

Amendment 474
Dominique Riquet
Proposal for a directive
Article 1 – point 6 – point d
Directive 2012/34/EU
Article 11 – paragraph 5

Text proposed by the Commission

Amendment

(d) paragraph 5 is deleted.

(d) paragraph 5 is replaced by the following:

1. In the context of public service contracts, Member States shall restrict the right to create new passenger transport services between a given place of departure and a given place of destination or an alternative route covered by one or more passenger transport services in respect of which access is provided for in

Article 10(2) if the new public service contract jeopardises the economic equilibrium of these existing services.

2. The degree to which the economic equilibrium of a passenger transport service in respect of which access is provided for in Article 10(2) has been compromised shall be assessed by the relevant national supervisory authority or by the bodies referred to in Article 55, on the basis of an objective economic analysis and pre-determined criteria, at the request of one of the following actors:

(a) the competent authority or competent authorities which plan to award the public service contract;

(b) the railway undertaking which operates the services in accordance with Article 10(2);

(c) the infrastructure manager.

The request must be made within one month of the last publication effected in accordance with Article 7 of Regulation (EC) No 1370/2007.

3. The national regulatory authority shall state the reasons for its decision and specify the basis on which one of the parties referred to in the previous paragraph may request a review of the decision within one month of its notification.

4. If the national supervisory authority declares that the economic equilibrium of the existing service has been compromised, it shall impose restrictions on the new public service in such a way as to remedy that problem. The national supervisory authority may also ban the introduction of the new service.

Or. fr

Justification

The Commission proposal to amend Directive 2012/34/EU seeks to modify Article 11(1) of the directive in an effort to ensure that the economic equilibrium of existing public service contracts is not compromised by the introduction of a new service on an open-access basis. By the same token, a mechanism is needed which ensures that the introduction of a new public service does not jeopardise the survival of existing open-access services.

Amendment 475

Ramon Tremosa i Balcells

Proposal for a directive

Article 1 – point 6 a new

Directive 2012/34/EU

Article 11 a (new)

Text proposed by the Commission

Amendment

6a. The following new Article 11a is inserted:

1. Member States shall limit the right of creating new passenger services under public service contracts between a given place of departure and a given destination or an alternative route which are covered by one or more passenger services the access of which is provided for in Article 10(2) when the new public service contract compromises the economic equilibrium of the existing services;

2. Whether the economic equilibrium of a passenger service the access of which is provided for in Article 10(2) would be compromised shall be determined by the relevant regulatory body or bodies referred to in Article 55 on the basis of an objective economic analysis and based on pre-determined criteria, after a request from any of the following:

(a) the competent authority or competent authorities that plan to award the public service contract;

(b) the railway undertaking performing the service under Article 10(2)

(c) the infrastructure manager;

The request shall be made within a month from the last publication done under Article 7, Regulation 1370/2007.

3. The regulatory body shall give the grounds for its decision and the conditions under which one of the parties mentioned in the previous paragraph may ask for a reconsideration of the decision within one month of its notification.

4. If the regulatory body decides that the economic equilibrium is compromised, it shall limit the new public service so that it no longer compromises the economic equilibrium of the existing passenger services. It may also forbid the new public service.

Member States shall take all necessary measures to allow decisions under paragraph 4 to be submitted to judicial review.

Or. en

Justification

The Commission's proposal prevents adverse effects to the economic equilibrium of a public service contract resulting from open access entry. Conversely, protection is also needed for the operators of open access services. As it stands, the Commission's proposal would make it possible for a competent authority to create new PSOs or extend existing ones in a manner that encroaches on existing open access services, and to then use the economic equilibrium provisions in order to restrict or even shut down existing open access services. In order to avoid this type of scenario and in order to achieve a healthy balance between the two types of services, existing open access services should face no restrictions of access as a result of a new or extended PSO, and their operators should receive financial compensation in case of a disadvantage suffered as the result of a new or extended PSO.

Amendment 476

David-Maria Sassoli, Franco Frigo

Proposal for a directive

Article 1 – point 6 - point d a new

Directive 2012/34/EU

Article 11 – paragraph 6 a (new)

(da) the following new paragraph 6a. is added:

6a. Competent authorities and infrastructure managers shall give advance notice to all interested parties of capacity requests pursuant to Regulation 1370/2007 that may conflict with the rights of access pursuant to Article 10 of this Directive. Interested parties shall include the operators of existing or proposed open access services on the infrastructure concerned. Advance notice shall be provided no less than [6] months prior to the proposed start date of utilisation of the requested capacity ('Proposed Utilisation Date'). Where capacity is requested and the Proposed Utilisation Date is within 6 months of the request, the competent authorities and infrastructure managers shall give the required advance notice to all interested parties within two working days of receipt of the capacity request.

A Railway undertaking which operates a passenger rail service with no public subsidy or exclusive rights ('Commercial Passenger Service Operator') may request an open access economic equilibrium determination by the relevant regulatory body or bodies referred to in Article 55 if it considers that (i) the creation of a new public service contract or (ii) the alteration or extension in scope of an already existing public service contract would compromise the economic equilibrium of at least one of the Commercial Passenger Service Operator's existing open access services ('Existing Open Access Services').

For the purpose of this Article, existing open access services means any service operated by a railway undertaking with no public subsidy or exclusive rights which is (i) in operation at the time of creation of

the new public service contract in question or (ii) is at the final stages of planning and due to enter into service on the route(s) concerned [in the next 12 months].

Whether the economic equilibrium of an Existing Open Access Service would be compromised shall be determined by the relevant regulatory body or bodies referred to in Article 55 on the basis of an objective economic analysis and based on pre-determined criteria, such criteria to include assessment of the risk to the economic viability of the Existing Open Access Service(s) posed by subsidised competition from public service contract(s), the overall service pattern and benefit to customers.

The competent authorities, the railway undertakings providing the relevant public services and the railway undertakings providing the Existing Open Access Services shall provide the relevant regulatory body or bodies with the information reasonably required to reach a decision. The regulatory body shall consider the information provided by these parties, and, as appropriate, shall ask for relevant information from, and initiate consultation with, all relevant parties, within one month of receipt of the request. The regulatory body shall consult all the relevant parties as appropriate, and shall inform the relevant railway undertakings of its reasoned decision within a pre-determined, reasonable time, and, in any event, within six weeks of receipt of all relevant information.

Should the regulatory body conclude that the creation of a new public service contract or the alteration or extension in scope of an already existing contract would compromise the economic equilibrium of the Existing Open Access Service(s), it shall make recommendations on how best to lessen the impact of the relevant public service contract(s) on the

Existing Open Access Service(s).

Or. en

Amendment 477

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 7

Directive 2012/34/EU

Article 13 a – paragraph 1

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 478

Gilles Pargneaux

Proposal for a directive

Article 1 – point 7

Directive 2012/34/EU

Article 13 a – paragraph 1

Text proposed by the Commission

Amendment

1. Without prejudice to Regulation (EC)

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.

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 legal entity, *a private entity* or an association of all railway undertakings operating passenger services.

Or. fr

Amendment 479
Saïd El Khadraoui

Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 1

Text proposed by the Commission

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.

Amendment

1. All timetabling data shall be considered public data and be made available accordingly.

Notwithstanding Regulation (EC) No 1371/2007 and Directive 2010/40/EU, ***Member States shall require railway undertakings to cooperate in setting up by 12 December 2020 a common travel information and ticketing scheme for the supply of tickets, through-tickets and reservations for all passenger services operated on their territory, or shall decide to empower relevant authorities to establish such a scheme. The scheme shall not create market distortion or discriminate between railway undertakings, and shall be managed by a public or private legal entity or an association of all railway undertakings operating passenger services. The relevant infrastructure manager shall contribute to the scheme as far as this is necessary in order to obtain information on train movements.***

Member States may ***also*** require railway undertakings ***and providers of passenger transport by other modes of transport*** to participate in a common ***interoperable travel*** information and integrated ticketing scheme for the supply of tickets, through-tickets and reservations or decide to give the power to ***relevant*** 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 ***other providers of passenger transport*** ***and*** that it is managed by a public or private legal entity or an association of all undertakings operating passenger services.

Or. en

Justification

The wording "notwithstanding" makes it clear that this new provision is not limited in its impact by provisions existing in Regulation 1371/2007 and Directive 2010/40/EU.

Amendment 480
Antonio Cancian

Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 1

Text proposed by the Commission

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.***

Amendment

1. After a period of five years following entry into force of this Directive, the Commission shall report to the European Parliament and the Council on the potential ticketing fragmentation between services under Public Service Obligations in each Member State. On the basis of this assessment, and without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU, the Commission may submit a legislative proposal allowing Member States to require railway undertakings operating domestic passenger services under Public Service Obligations 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. Other railway undertakings shall have access to these schemes on a free basis and free of charge for the purpose of selling tickets for services under Public Service Obligations as an add-on to their own services.

Or. en

Amendment 481
Bernadette Vergnaud
Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU, Member States **shall** require railway undertakings operating domestic passenger services to participate in a common information **scheme. In addition, Member States may require railway undertakings operating domestic passenger services to participate in a** common 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 **schemes are** established, Member States shall ensure that **they do** 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.

Or. fr

Justification

The establishment of common information schemes should be mandatory. If a Member State decides to establish ticketing and reservation schemes, all railway undertakings should participate in them. Such schemes must be managed in an independent, non-discriminatory manner.

Amendment 482
Brian Simpson

Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 1

Text proposed by the Commission

1. **Without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU,** Member States may require railway

Amendment

1. All timetabling data shall be considered public data and be made available accordingly.

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.

Member States shall require railway undertakings to cooperate in setting up by 12 December 2020 a common travel information and ticketing scheme for the supply of tickets, through-tickets and reservations for all passenger services operated on their territory, or shall decide to empower relevant authorities to establish such a scheme. The scheme shall not create market distortion or discriminate between railway undertakings, and shall be managed by a public or private legal entity or an association of all railway undertakings operating passenger services. The relevant infrastructure manager shall contribute to the scheme as far as this is necessary in order to obtain information on train movements. The scheme manager shall ensure that the scheme does not prevent, restrict or distort competition in connection with the supply of travel information, tickets, through-tickets and reservations by railways undertakings or third parties. The regulatory body referred to in Article 55 shall have regulatory oversight of the operation of the scheme with a view to preventing discrimination, and shall be empowered to ensure that the scheme operates on this basis.

Member States may *also* require railway undertakings *and providers of* passenger transport by other modes of transport to

participate in a common **interoperable travel** information and integrated ticketing scheme for the supply of tickets, **through tickets** and reservations or decide to give the power to **relevant** 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 **other providers of passenger transport** and that it is managed by a public or private legal entity or an association of all undertakings operating passenger services.

This Article is without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU

Or. en

Justification

In addition to the rail sector establishing a functioning through ticketing system by 2020, it is important that the national regulatory bodies be given proper oversight over the ticketing schemes to avoid distortions or discriminatory practices by one or other railway undertaking and/or third parties.

Amendment 483
Silvia-Adriana Țicău
Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 1

Text proposed by the Commission

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

Amendment

1. All timetabling data shall be considered public data and be made available accordingly.

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.

Member States shall require railway undertakings to cooperate in setting up, by 12 December 2016, a common travel information and ticketing scheme for the supply of tickets and reservations for all passenger services operated on their territory, or shall decide to empower the relevant authorities to establish such a scheme.

The relevant infrastructure manager shall contribute to the scheme as far as this is necessary in order to obtain information on train movements.

Member States may *also* require railway undertakings *and providers of passenger transport by other modes of transport* to participate in a common *interoperable travel information and* integrated ticketing scheme for the supply of tickets, *information* and reservations or decide to give the power to relevant authorities to establish such a scheme.

If such a scheme is established, Member States shall ensure that it does not create market distortion or *give rise to discrimination* between railway undertakings and *other providers of* passenger services.

Or. ro

Amendment 484
Michel Dantin, Dominique Riquet
Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU, railway undertakings operating domestic passenger services **shall work together with a view to participating** in a common information and integrated ticketing scheme for the supply of tickets, through-tickets and reservations. **Member States may 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 **the** passenger services **concerned**.

Or. fr

Amendment 485
David-Maria Sassoli, Franco Frigo
Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 1

Text proposed by the Commission

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

Amendment

1. Without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU, Member States may require railway undertakings operating domestic **public** passenger services, **pursuant to Regulation (EC) No 1370/2007**, 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

private legal entity or an association of all railway undertakings operating passenger services.

undertakings and that it is managed by a public or private legal entity or an association of all railway undertakings operating **public** passenger services, **pursuant to Regulation (EC) No 1370/2007**.

Or. it

Amendment 486
Phil Bennion, Philippe De Backer

Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU, Member States **shall** 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. ***Regulatory bodies shall ensure that common information and integrated ticketing schemes do*** 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.

Or. en

Amendment 487
Marita Ulvskog
Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 1

Text proposed by the Commission

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.*

Amendment

1. All timetabling data shall be considered public data and be made available accordingly.

Without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU, Member States *shall* require railway undertakings *to cooperate in establishing a uniform* information and ticketing scheme for the supply of tickets, through-tickets and reservations *for all passenger transport operated on their territory* or decide to give the power to competent authorities to establish such a scheme. *These national schemes shall be devised so as to be interoperable with the schemes in other Member States and shall be linked together in a common scheme.* Such a scheme *should not lead to* market distortion or *discrimination* between railway undertakings. *The relevant infrastructure manager shall contribute to the scheme as far as this is necessary in order to obtain information on train movements.*

Member States shall also require railway undertakings and providers of passenger transport by other modes of transport to participate in a uniform interoperable travel information and integrated ticketing scheme for the supply of tickets,

through-tickets and reservations or decide to give the power to relevant authorities to establish such a scheme. The national schemes shall be linked with those of other Member States to form a common scheme.

The Member States shall ensure that the scheme does not lead to market distortion or discrimination between railway undertakings and other passenger transport providers.

Or. sv

Amendment 488
Isabelle Durant

Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 1

Text proposed by the Commission

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.

Amendment

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 ***network, timetable and train traffic information,*** 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 ***its costs are shared equitably amongst all benefiting railway undertakings, based on their respective contributions to and benefits from the scheme,*** that it does not create market distortion or discriminate between railway undertakings and that it is managed by ***an independent*** public or private legal entity, ***by one of the concerned railway undertakings or*** by an association of all

railway undertakings operating passenger services.

Or. en

Justification

These amendments aim at: expanding the benefits of the intended scheme to passengers, making it possible for the Members States and for railway undertakings to reuse and expand the already existing schemes and avoiding that some railway undertakings hitch a free-ride on the scheme at the expense of others.

Amendment 489

Joachim Zeller

Proposal for a directive

Article 1 – point 7

Directive 2012/34/EU

Article 13 a – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU, Member States *shall* 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. *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 be fully involved in decision-taking within that legal entity or association.*

Or. de

Justification

The regions frequently report problems with ticketing schemes at stations operated by established railway undertakings. The aim of the regions is to harmonise ticketing schemes in a competitive market. Mandatory participation in a national information scheme can help to make public transport more attractive. Local authorities must be involved in the bodies managing the scheme.

Amendment 490

Jean-Jacob Bicep, Isabelle Durant, Michael Cramer

Proposal for a directive

Article 1 – point 7

Directive 2012/34/EU

Article 13 a – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU, ***and at the latest one year after the entry into force of this Directive***, Member States ***shall*** 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. ***When*** such a scheme is established, Member States shall ensure ***that it is interoperable and can be integrated into other national or European schemes***, that it does not create market distortion or discriminate between railway undertakings and that it is managed by ***an independent*** public or private legal entity or an association of all railway undertakings operating passenger services. ***Member States shall also ensure that the costs of such a scheme are divided fairly among the participating railway undertakings, on the basis of their respective contributions and the benefits they gain from it.***

Or. fr

Justification

These amendments aim at: expanding the benefits of the intended scheme to passengers, making it possible for the Members States and for railway undertakings to reuse and expand the already existing schemes and avoiding that some railway undertakings hitch a free-ride on the scheme at the expense of others.

Amendment 491

Sabine Wils, Jacky Hénin

Proposal for a directive

Article 1 – point 7

Directive 2012/34/EU

Article 13 a – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Without prejudice to Regulation (EC) No 1371/2007 and Directive 2010/40/EU, Member States may require railway undertakings operating 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 **regardless the degree of opening the rail services to the market** and that it is managed by a public or private legal entity or an association of all railway undertakings operating passenger services.

Or. en

Justification

Common information and integrated ticketing scheme should cover all passenger services, regardless of the degree of opening of the market.

Amendment 492

Ismail Ertug

Proposal for a directive

Article 1 – point 7

Directive 2012/34/EU

Article 13 a – paragraph 2

Text proposed by the Commission

2. Member States shall require railway undertakings operating passenger services to put in place and coordinate contingency plans to provide assistance to passengers, in the sense of Article 18 of Regulation (EC) No 1371/2007, in the event of a major disruption to services.

Amendment

2. Member States shall require railway undertakings operating passenger services to put in place and coordinate contingency plans to provide assistance to passengers, in the sense of Article 18 of Regulation (EC) No 1371/2007, **taking account of the Commission Decision of 21 December 2007 on technical specifications for interoperability as regards 'persons of reduced mobility'**, in the event of a major disruption to services.

Or. de

Amendment 493

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 7

Directive 2012/34/EU

Article 13 a – paragraph 2

Text proposed by the Commission

2. Member States shall **require railway undertakings operating passenger services to put in place and coordinate** contingency plans to provide assistance to passengers, **in the sense of Article 18 of Regulation (EC) No 1371/2007**, in the event of a major disruption to services.

Amendment

2. Member States shall **set up and coordinate with respect to major EU routes, national** contingency plans to provide assistance to passengers in the event of a major disruption to services.

Or. en

Justification

Each Railway Undertaking is responsible for developing solutions and processes to help stranded passengers for its own services – including through bi-lateral contracts with other Railway Undertakings, station managers, or external providers. In this context, it is useful to

clarify that crisis management shall be a strictly individual responsibility for railway undertakings.

Amendment 494
Isabelle Durant

Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 2

Text proposed by the Commission

2. Member States shall require railway undertakings operating passenger services to put in place and coordinate contingency plans to provide assistance to passengers, in the sense of Article 18 of Regulation (EC) No 1371/2007, in the event of a major disruption to services.

Amendment

2. Member States shall require railway undertakings operating passenger services to put in place and coordinate, ***on a commercial basis and under the supervision of the regulatory body,*** contingency plans to provide assistance to passengers, in the sense of Article 18 of Regulation (EC) No 1371/2007, in the event of a major disruption to services.

Or. en

Justification

This amendment aims at: making it possible for the Members States and for railway undertakings to reuse and expand the already existing contingency plans and actual schemes already in place and avoiding that some railway undertakings hitch a free-ride on these plans and schemes at the expense of others.

Amendment 495
Jean-Jacob Bicep, Isabelle Durant
Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 a – paragraph 2

Text proposed by the Commission

2. Member States shall require railway undertakings operating passenger services to put in place and coordinate contingency

Amendment

2. Member States shall require railway undertakings operating passenger services to put in place and coordinate, ***on a***

plans to provide assistance to passengers, in the sense of Article 18 of Regulation (EC) No 1371/2007, in the event of a major disruption to services.

commercial basis and subject to scrutiny by the supervisory body, contingency plans to provide assistance to passengers, in the sense of Article 18 of Regulation (EC) No 1371/2007, in the event of a major disruption to services.

Or. fr

Justification

This amendment aims at: making it possible for the Members States and for railway undertakings to reuse and expand the already existing contingency plans and actual schemes already in place and avoiding that some railway undertakings hitch a free-ride on these plans and schemes at the expense of others.

Amendment 496 **Antonio Cancian**

Proposal for a directive
Article 1 – point 7
Directive 2012/34/EU
Article 13 – paragraph 2

Text proposed by the Commission

2. Member States shall **require railway undertakings operating passenger services to put in place and coordinate** contingency plans to provide assistance to passengers, in the **sense of Article 18 of Regulation (EC) No 1371/2007, in the event of a major disruption to** services.

Amendment

2. Member States shall **set up, and coordinate with respect to major EU routes, national** contingency plans to provide assistance to passengers in the **event of a major disruption to services triggered by natural or man-made disasters. Each railway undertaking operating passenger services and station manager shall put in place its own contingency plan in accordance with national contingency plans.**

Or. en

Amendment 497
Michel Dantin, Dominique Riquet
Proposal for a directive
Article 1 – point 7

Directive 2012/34/EU
Article 13 a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Under no circumstances may railway undertakings participating in common information and integrated ticketing scheme be subject to provisions requiring them to make available directly and free of charge information regarding their timetables and fares for the purposes of developing such a scheme. This information shall be provided on the basis of agreements between the rail undertakings and the entity managing the scheme.

Or. fr

Amendment 498
David-Maria Sassoli, Franco Frigo
Proposal for a directive
Article 1 – point 7 a (new)
Directive 2012/34/EU
Article 19 – point d a (new)

Text proposed by the Commission

Amendment

7a. The following point is added to Article 19:

‘(da). have undertaken to apply the respective collective agreements entered into with the most representative national trade union organisations, which are in force in the Member States in which the undertaking intends to operate, with reference exclusively to the product sector of reference. Should the undertaking be unable to prove that such an agreement has been applied, the competent authority may cancel its licence. Such cancellation may also be ordered after authorisation to provide the service has been obtained’.

Or. it

Amendment 499
Jean-Jacob Bicep
Proposal for a directive
Article 1 – point 7 a (new)
Directive 2012/34/EU
Article 19 – point d a (new)

Text proposed by the Commission

Amendment

7a. In Article 19, the following point is added:

'(da) have formally undertaken to honour all the terms of existing collective agreements in the Member State in which they are seeking to provide a service.'

Or. fr

Justification

In order to avoid social dumping in the Union, it is necessary to ensure that undertakings seeking to operate on a network have undertaken to honour the terms of existing collective agreements.

Amendment 500
Ismail Ertug, Knut Fleckenstein, Georges Bach
Proposal for a directive
Article 1 – point 7 a (new)
Directive 2012/34/EU
Article 19 - point d a new

Text proposed by the Commission

Amendment

7a. In paragraph 19, the following point is added:

'(da) have given a commitment to apply the respective representative collective agreements of the Member States in which the undertaking wishes to operate, in order to prevent undesirable social developments. The principle of the same pay for the same work in the same place must apply. The competent regulatory body shall monitor compliance with this provision.'

Amendment 501
Marita Ulvskog
Proposal for a directive
Article 1 – point 7 a (new)
Directive 2012/34/EU
Article 19 - point d a new

Text proposed by the Commission

Amendment

7 a. Article 19 (d) of Directive 2012/34/EU shall be amended as follows:

“(da) have not been convicted of serious or repeated failure to fulfil social or labour law obligations, including obligations under occupational safety and health legislation and collective agreements, and customs law obligations in the case of a company seeking to operate cross-border freight transport subject to customs procedures.”

Or. sv

Amendment 502
Marita Ulvskog
Proposal for a directive
Article 1 – point 7 b (new)
Directive 2012/34/EU
Article 19 – point d b new

Text proposed by the Commission

Amendment

7 b. The following point shall be added to Article 19:

"db) has undertaken to apply, in those Member States in which the undertaking intends to operate, collective agreements of general validity or usual in a particular sector according to the customary practice in the Member States.”

Or. sv

Amendment 503

Isabelle Durant

Proposal for a directive

Article 1 – point 7 b (new)

Directive 2012/34/EU

Article 29 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

7a. In Article 29, paragraph 1, subparagraph 2 is replaced by the following:

"Subject to that condition, Member States shall establish specific charging rules or delegate such powers to the infrastructure manager or to the charging body".

Or. en

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control, directly or through the establishment of one or more supervisory or executive bodies, over infrastructure charging and train path allocation. And where they exist, the independent bodies in charge of these essential functions should be associated or entrusted with all the decisions relating to their missions.

Amendment 504

Jean-Jacob Bicep, Isabelle Durant

Proposal for a directive

Article 1 – point 7 b (new)

Directive 2012/34/EU

Article 29 – paragraph 1- subparagraph 2

Text proposed by the Commission

Amendment

7b. In Article 29, paragraph 1, subparagraph 2 is replaced by the following:

"Subject to that condition, Member States shall establish specific charging rules or delegate such powers to the infrastructure

manager or to the charging body".

Or. en

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control, directly or through the establishment of one or more supervisory or executive bodies, over infrastructure charging and train path allocation. And where they exist, the independent bodies in charge of these essential functions should be associated or entrusted with all the decisions relating to their missions.

Amendment 505

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 - point 7b (new)

Directive 2012/34/EU

Article 31 – paragraph 4

Text proposed by the Commission

Amendment

7b. In Article 31 – paragraph 4 the following subparagraph is added:

In such a case, the Member State may decide that the revenue from the scarcity charge shall be used for infrastructure investment projects aiming at relieving capacity constraints.

Or. en

Justification

The existing legislation does not specify how the infrastructure manager should use the revenues from additional infrastructure charges relating to scarce capacity. This amendment allows a Member State to decide that such revenues shall be used to relieve capacity constraints on the network.

Amendment 506

Isabelle Durant

Proposal for a directive
Article 1 – point 7 b (new)
Directive 2012/34/EU
Article 31 - paragraphs 7 and 8

Text proposed by the Commission

Amendment

7b. Article 31 is amended as follows:

(a) Paragraph 7 is replaced by the following:

"7. The charge imposed for track access within service facilities referred to in point 2 of Annex II, and the supply of services in such facilities, shall not exceed the average cost of providing it, plus a reasonable profit."

(b) Paragraph 8 is replaced by the following:

"8. Where services listed in points 3 and 4 of Annex II, as additional and ancillary services are offered by only one supplier, the charge imposed for such a service shall not exceed the average cost of providing it, plus a reasonable profit."

Or. en

Justification

Although the services referred to in these paragraphs have very high fixed costs (e. g. the costs of building, maintaining and staffing a passenger train station), most of them can be provided at an insignificant marginal cost (e. g. the cost of one passenger using this station). Unless it is specified that the operator of a service facility is allowed to charge up to the average cost of using it, it will essentially have to serve cherry-pickers for free while footing the whole bill for them.

Amendment 507
Jean-Jacob Bicep, Isabelle Durant
Proposal for a directive
Article 1 – point 7 b (new)
Directive 2012/34/EU
Article 31 - paragraphs 7 and 8

Text proposed by the Commission

Amendment

Article 31 is amended as follows:

(a) Paragraph 7 is replaced by the following:

"7. The charge imposed for track access within service facilities referred to in point 2 of Annex II, and the supply of services in such facilities, shall not exceed the average cost of providing it, plus a reasonable profit."

(b) Paragraph 8 is replaced by the following:

"8. Where services listed in points 3 and 4 of Annex II, as additional and ancillary services are offered by only one supplier, the charge imposed for such a service shall not exceed the average cost of providing it, plus a reasonable profit."

Or. en

Justification

Although the services referred to in these paragraphs have very high fixed costs (e. g. the costs of building, maintaining and staffing a passenger train station), most of them can be provided at an insignificant marginal cost (e. g. the cost of one passenger using this station). Unless it is specified that the operator of a service facility is allowed to charge up to the average cost of using it, it will essentially have to serve cherry-pickers for free while footing the whole bill for them.

Amendment 508
Sabine Wils, Jacky Hénin

Proposal for a directive
Article 1 – point 8
Directive 2012/34/EU
Article 38 – paragraph 4

Text proposed by the Commission

Amendment

8. In Article 38, paragraph 4 is replaced by the following:

deleted

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure managers and the regulatory bodies concerned no less than 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable regulatory bodies concerned to assess the potential economic impact on existing public service contracts, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within five days.

Or. en

Justification

The requirements related to operate a rail passenger service on an international stretch are to be kept: They will be helpful in solving any dispute.

Amendment 509
Gilles Pargneaux
Proposal for a directive
Article 1 – point 8
Directive 2012/34/EU
Article 38 – paragraph 4

Text proposed by the Commission

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure **managers** and the regulatory **bodies** concerned no less than 18 months before the entry into force of the

Amendment

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure **manager** and the regulatory **body** concerned no less than 18 months before the entry into force of the

working timetable to which the request for capacity relates. In order to enable regulatory *bodies* concerned to assess the potential economic impact on existing public service contracts, *regulatory bodies* shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within five days.

working timetable to which the request for capacity relates, *providing all information necessary for the application to be considered*. In order to enable regulatory *body* concerned to assess the potential economic impact on existing public service contracts, *it* shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within five days.

Or. fr

Amendment 510
Isabelle Durant

Proposal for a directive
Article 1 – point 8
Directive 2012/34/EU
Article 38 – paragraph 4

Text proposed by the Commission

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure managers *and the regulatory* bodies concerned no less than 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable regulatory bodies concerned to assess the potential economic impact on existing public service contracts, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service

Amendment

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure managers, *the regulatory bodies and, where appropriate, the allocation* bodies concerned no less than 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable regulatory bodies concerned to assess the potential economic impact on existing public service contracts, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway

contract on the route of that passenger service is informed without undue delay and at the latest within five days.

undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within five days.

Or. en

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control, directly or through the establishment of one or more supervisory or executive bodies, over infrastructure charging and train path allocation. Where they exist, the independent bodies in charge of these essential functions should be associated to all the decisions and discussions relating to their missions.

Amendment 511

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 – point 8

Directive 2012/34/EU

Article 38 – paragraph 4

Text proposed by the Commission

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure managers and the regulatory bodies concerned ***no less than*** 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable regulatory bodies concerned to assess the potential economic impact on existing public service contracts, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger

Amendment

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure managers and the regulatory bodies concerned ***according to deadlines specified by the Member States. The deadlines specified by Member States shall not exceed*** 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable regulatory bodies concerned to assess the potential economic impact on existing public service contracts, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway

service is informed without undue delay and at the latest within five days.

undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within five days.

The regulatory bodies concerned shall not transmit to any third party any commercial data other than the origin, destination and intermediate stops of the service for which capacity is requested.

Or. en

Justification

Commission's proposed 18-month long period should be the maximum notification period, not the minimum. Below that level, each Member State would set its own notification period in line with national conditions. This would ensure that no Member State can define artificially long periods, thus leading to easier market access and a better development of competition as compared to the Commission text.

Amendment 512

Phil Bennion, Philippe De Backer

Proposal for a directive

Article 1 – point 8

Directive 2012/34/EU

Article 38 – paragraph 4

Text proposed by the Commission

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure managers and the regulatory bodies concerned no less than 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable regulatory bodies concerned to assess the potential economic impact on existing public service contracts, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on *that* route defined in a public service contract, any other interested competent

Amendment

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service ***according to Article 10, paragraph 2 of this Directive or to operating a new or altered public service contract***, it shall inform the infrastructure managers and the regulatory bodies concerned no less than 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable regulatory bodies concerned to assess the potential economic impact on existing public service contracts ***or on the service provided by the railway undertaking which has been granted***

authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within five days.

access to railway infrastructure according to Article 10, paragraph 2 of this Directive, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on ***a route defined in a public service contract or a new or altered public service contract on a route defined under open access conditions***, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger ***service, or providing a service according to Article 10, paragraph 2 of this Directive*** is informed without undue delay and at the latest within five days.

Or. en

Justification

The potential economic impact of a new public service contract or the extension of the scope of an existing public service contract on a route where an open access operator is providing a service should also be assessed by the regulatory bodies.

Amendment 513

Jean-Jacob Bicep, Isabelle Durant

Proposal for a directive

Article 1 – point 8

Directive 2012/34/EU

Article 38 – paragraph 4

Text proposed by the Commission

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure managers **and** the regulatory bodies concerned no less than 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable regulatory bodies concerned to assess the potential economic impact on existing

Amendment

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure managers, the regulatory bodies concerned **and, where appropriate, the allocation** bodies no less than 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable regulatory bodies concerned to

public service contracts, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within five days.

assess the potential economic impact on existing public service contracts, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within five days.

Or. fr

Justification

Railway infrastructure is a natural monopoly and it is usually partly funded by public money. For these reasons, it is essential to preserve the possibility for the State to exert control, directly or through the establishment of one or more supervisory or executive bodies, over infrastructure charging and train path allocation. Where they exist, the independent bodies in charge of these essential functions should be associated to all the decisions and discussions relating to their missions.

Amendment 514 **Antonio Cancian**

Proposal for a directive
Article 1 – point 8
Directive 2012/34/EU
Article 38 – paragraph 4

Text proposed by the Commission

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure managers and the regulatory bodies concerned ***no less than*** 18 months before the entry into force of the working timetable to which the request for capacity ***relates***. ***In*** order to enable regulatory bodies concerned to assess the potential economic impact on existing public service contracts, regulatory bodies shall ensure that any competent authority

Amendment

4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, it shall inform the infrastructure managers and the regulatory bodies concerned ***according to deadlines specified by the Member States***. ***The deadlines specified by Member States shall not exceed*** 18 months before the entry into force of the working timetable to which the request for capacity ***relates***. ***In*** order to enable regulatory bodies concerned to assess the potential economic

that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within five days.

impact on existing public service contracts, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within five days.

The regulatory bodies concerned shall not transmit to any third party any commercial data other than the origin, destination and intermediate stops of the service for which capacity is requested.

Or. en

Amendment 515
Brian Simpson

Proposal for a directive
Article 1 – point 8 a (new)
Directive 2012/34/EU
Article 42 – paragraph 1a (new)

Text proposed by the Commission

Amendment

8a. In Article 42, the following new paragraph 1a is inserted:

1a. With a view to preventing discrimination against applicants, the regulatory body referred to in Article 55 of this Directive shall give prior approval of such a framework agreement and oversee a framework agreement in force on its own initiative. An applicant shall also have the right to appeal to the regulatory body if it believes that it has been unfairly treated, discriminated against or is in any other way aggrieved by a framework agreement. In the event of an appeal against a framework agreement, the regulatory body shall either confirm that no modification of the

framework agreement is required, or it shall require modification of that framework agreement in accordance with directions specified by the regulatory body, not later than two months after the appeal is received. The infrastructure manager and the railway undertaking shall comply as soon as is materially feasible, and in any case not later than one month after receiving notification of the request from the regulatory body. Whilst performing the functions described in this paragraph, the regulatory body shall pay particular attention to the protection of business secrets.

Or. en

Justification

It is important to give the regulatory bodies oversight over framework agreements, which can be a major source of discrimination.

Amendment 516
Saïd El Khadraoui

Proposal for a directive
Article 1 – point 8 a (new)
Directive 2012/34/EU
Article 54 – paragraph 1

Text proposed by the Commission

Amendment

In Article 54 – paragraph 1 is replaced by the following:

1. In the event of disturbance to train movements caused by technical failure or accident the infrastructure manager shall take all necessary steps to restore the situation to normal. To that end, it shall draw up a contingency plan listing the various bodies to be informed in the event of serious incidents or serious disturbance to train movements. In case of disturbance which has a potential impact on cross-border traffic the infrastructure

manager shall share any relevant information with other infrastructure managers whose network and traffic may be affected by that disturbance. The infrastructure managers concerned shall cooperate to restore the cross-border traffic to normal.

Or. en

Justification

Article 54, paragraph 1 is amended to make sure that information on a disturbance in one network which could have an impact on traffic in another Member State is communicated to other potentially affected infrastructure managers.

Amendment 517
Jean-Jacob Bicep, Isabelle Durant
Proposal for a directive
Article 1 – point 8 a (new)
Directive 2012/34/EU
Article 54 – paragraph 1

Text proposed by the Commission

Amendment

In Article 54 – paragraph 1 is replaced by the following:

"1. In the event of disturbance to train movements caused by technical failure or accident, the infrastructure manager shall, under the direct supervision of the allocation body where appropriate, take all necessary steps to restore the situation to normal. To that end, it shall draw up a contingency plan listing the various other bodies to be informed in the event of serious incidents or serious disturbance to train movements."

Or. en

Justification

The proposed reference to the allocation body, when it exists, in this article, will clarify the exact role entrusted to this body, "in the event of disturbance", by Article 7(2) of Directive 2012/34/EU, which states that where the IM, in its legal form, organisation or decision-making functions, is not independent of any RU, the functions referred to in Section 3 of Chapter IV (which includes Art. 54) shall be performed by the allocation body. This amendment aims at specifying how exactly this is to be achieved.

Amendment 518

Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 8 b (new)

Directive 2012/34/EU

Article 55 – paragraph 3a (new)

Text proposed by the Commission

Amendment

8b. In Article 55, the following paragraph is added:

'3a. Member States shall ensure that the regulatory bodies have the necessary organisational and operational resources set out in Article 56 of this directive and shall, where necessary, adopt an action plan for the purpose of providing them with these resources.'

Or. fr

Amendment 519

Saïd El Khadraoui

Proposal for a directive

Article 1 – point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 1 - points ga and gb (new)

Text proposed by the Commission

Amendment

In Article 56, paragraph 1, the following points are added:

'(g a) scheduled infrastructure maintenance work;

(g b) unscheduled infrastructure

maintenance work;'

Or. en

Amendment 520

Antonio Cancian

Proposal for a directive

Article 1 – point 8 c (new)

Directive 34/2012

Article 56 – paragraph 1 - points ga and gb (new)

Text proposed by the Commission

Amendment

In Article 56 paragraph 1 the following points are added:

(ga) scheduled maintenance work

(gb) unscheduled maintenance work

Or. en

Justification

This addition offers new protection against possible discrimination, thus supporting the development of competition.

Amendment 521

Oldřich Vlasák

Proposal for a directive

Article 1 – point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 1 - point ga (new)

Text proposed by the Commission

Amendment

In Article 56, paragraph 1, the following point is added:

(ga) scheduled or unscheduled maintenance work.

Or. en

Justification

The scheduling of maintenance works can become a source of disguised discrimination which can be eliminated by the proposed extension of regulatory powers.

Amendment 522

Isabelle Durant

Proposal for a directive

Article 1 – point 8 c (new)

Text proposed by the Commission

Amendment

In Article 54, paragraph 1 is replaced by the following:

"1. In the event of disturbance to train movements caused by technical failure or accident, the infrastructure manager shall, under the direct supervision of the allocation body where appropriate, take all necessary steps to restore the situation to normal. To that end, it shall draw up a contingency plan listing the various other bodies to be informed in the event of serious incidents or serious disturbance to train movements."

Or. en

Justification

The proposed reference to the allocation body, when it exists, in this article, will clarify the exact role entrusted to this body, "in the event of disturbance", by Article 7(2) of Directive 2012/34/EU, which states that where the IM, in its legal form, organisation or decision-making functions, is not independent of any RU, the functions referred to in Section 3 of Chapter IV (which includes Art. 54) shall be performed by the allocation body. This amendment aims at specifying how exactly this is to be achieved.

Amendment 523

Ismail Ertug, Knut Fleckenstein, Georges Bach

Proposal for a directive

Article 1 – point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 1 - points g a and g b (new)

Text proposed by the Commission

Amendment

The following points are added in Article 56(1):

'(ga) scheduled maintenance

(gb) unscheduled maintenance'

Or. de

Justification

In order to rule out discrimination, the scope of the powers of the regulatory body under Article 56(1) should be expanded so that they explicitly cover scheduled and unscheduled maintenance.

Amendment 524
Isabelle Durant

Proposal for a directive
Article 1 – point 8 c (new)
Directive 2012/34/EU
Article 56 – paragraph 1 - points ga and gb (new)

Text proposed by the Commission

Amendment

In Article 56, paragraph 1, the following points are added:

(ga) scheduled maintenance work;

(gb) unscheduled maintenance work.

Or. en

Justification

Infrastructure maintenance can be a source of actual or perceived discrimination, either in the way it is scheduled or in the way it is actually performed or not performed. Including maintenance activities in the list of regulatory powers is therefore an important means to allow for more equitable competition where applicable.

Amendment 525
Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 1 - points g a and g b (new)

Text proposed by the Commission

Amendment

In Article 56 paragraph 1, the following points are added:

(ga) planned works on the network;

(gb) works unforeseen.

Or. fr

Justification

Maintenance works on the network, whether planned or unforeseen, could undermine the principle of non-discrimination.

Amendment 526

Saïd El Khadraoui

Proposal for a directive

Article 1 – point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 2

Text proposed by the Commission

Amendment

In Article 56 – paragraph 2 is amended as a follows:

2. Without prejudice to the powers of the national competition authorities for securing competition in the rail services markets, the regulatory body shall have the power to monitor the competitive situation in the rail services markets and shall, in particular, control points (a) to (g b) of paragraph 1 on its own initiative and with a view to preventing discrimination against applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used

to discriminate against applicants.

Or. en

Justification

This amendment is necessary to reflect the proposed inclusion of new points (g a) and (g b) in paragraph 1 of Article 56.

Amendment 527

Ismail Ertug, Knut Fleckenstein, Georges Bach

Proposal for a directive

Article 1 – point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 2

Text proposed by the Commission

Amendment

Article 56(2) is replaced by the following:

'2. Without prejudice to the powers of the national competition authorities to safeguard competition on rail transport markets, the regulatory body shall be entitled to monitor the situation with regard to competition on rail transport markets; it shall in particular check on its own initiative the points referred to in paragraph 1, letters (a) to (i), with a view to preventing discrimination against applicants. It shall, in particular, check whether the network conditions of use contain discriminatory clauses or grant the infrastructure manager discretionary powers that may be used to discriminate against applicants.

In respect of public rail passenger transport, the regulatory body shall, without being asked to do so, meet the requirements laid down in Regulation (EC) No 1370/2007 and take due account of the services provided for in Article 10 of this Directive.'

Or. de

Justification

The regulatory body shall make arrangements for interaction between transport services provided in the general interest and transport services provided on the basis of free access.

Amendment 528

Jean-Jacob Bicep, Isabelle Durant

Proposal for a directive

Article 1 – point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 2

Text proposed by the Commission

Amendment

In Article 56, paragraph 2 is replaced by the following:

'2. Without prejudice to the powers of the national competition authorities for securing competition in the rail services markets, the regulatory body shall have the power to monitor the competitive situation in the rail services markets and shall in particular control points (a) to (i) of paragraph 1, on its own initiative and in advance, with a view to preventing discrimination against applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate against applicants.

With regard to passenger transport by rail, compliance with Regulation (EC) 1370/2007 and the provisions of Article 10 and Article 11 of this directive shall be guaranteed by the regulatory body.'

Or. fr

Justification

Besides specifying that the regulator can act on its own initiative as well as upon request, this amendment aims at completing the list of its powers, in line with the changes proposed to Article 56(1).

Amendment 529
Isabelle Durant

Proposal for a directive
Article 1 – point 8 c (new)
Directive 2012/34/EU
Article 56 – paragraph 2

Text proposed by the Commission

Amendment

Article 56, paragraph 2 is replaced by the following:

"2. Without prejudice to the powers of the national competition authorities for securing competition in the rail services markets, the regulatory body shall have the power to monitor the competitive situation in the rail services markets and shall, in particular, control points (a) to (i) of paragraph 1 on its own initiative as well as upon specific requests, with a view to preventing discrimination against applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate against applicants.

Or. en

Justification

Besides specifying that the regulator can act on its own initiative as well as upon request, this amendment aims at completing the list of its powers, in line with the changes proposed to Article 56(1).

Amendment 530
Ismail Ertug, Knut Fleckenstein, Georges Bach
Proposal for a directive
Article 1 – point 8 c (new)
Directive 2012/34/EU
Article 56 – paragraph 6

Article 56(6) is replaced by the following:

'6. The regulatory body shall ensure that charges set by the infrastructure manager are consistent with Section 2 of Chapter IV and are non-discriminatory. The regulatory body shall also ensure that the access charges set by infrastructure operators, operators of service facilities or railway undertakings - including for access to tracks and access to stations, their buildings and other facilities, including facilities for the display of travel information - are not discriminatory. In that connection, proposed changes to the level or structure of the charges referred to in this paragraph shall be notified to the regulatory body at the latest two months prior to their scheduled entry into force. Until one month prior to their entry into force, the regulatory body may insist on a reduction or an increase in the proposed changes, their postponement or their cancellation. Negotiations between applicants and an infrastructure manager concerning the level of infrastructure charges shall be permitted only if they are carried out under the supervision of the regulatory body. The regulatory body shall intervene if negotiations are likely to produce an outcome which contravenes the provisions of this Chapter.

Or. de

Justification

In order to ensure that an infrastructure operator or - where relevant - a railway undertaking does not intentionally or unintentionally create distortions of competition, even only temporarily, by altering its charges, the regulatory body must be informed in advance and shall be explicitly empowered to modify or block the changes before they enter into force.

Amendment 531

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 - point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 6

Text proposed by the Commission

Amendment

8c. Article 56 – paragraph 6 is replaced by the following:

6. The regulatory body shall ensure that charges set by the infrastructure manager comply with Section 2 of Chapter IV and are non-discriminatory. The regulatory body shall also ensure that charges set by the infrastructure manager, by operators of service facilities, or by railway undertakings for access, including track access, to passenger stations, their buildings and other facilities, including travel information display, are non-discriminatory. In order to ensure that this is achieved, any planned change to the structure or level of the charges referred to in this paragraph shall be communicated to the regulatory body not later than two months before its planned entry into force. The regulatory body may require any reduction or increase in the planned change, its deferral to a later date, or its cancellation, not later than one month before its planned entry into force. Negotiations between applicants and an infrastructure manager concerning the level of infrastructure charges shall only be permitted if these are carried out under the supervision of the regulatory body. The regulatory body shall intervene if negotiations are likely to contravene the requirements of this Chapter.

Or. en

Justification

Existing legislation already provides for the right to appeal to the regulatory body at any time regarding the charging scheme, the level or structure of infrastructure charges, and the charges for rail-related services (Art. 56(1), Recast directive). However, these mechanisms are taken on the ex-post basis whereas the regulatory body should also be given ex-ante information and an explicit power to change or block changes to charges before they come into effect.

Amendment 532 **Isabelle Durant**

Proposal for a directive
Article 1 – point 8 c (new)
Directive 2012/34/EU
Article 56 – paragraph 6

Text proposed by the Commission

Amendment

Article 56, paragraph 6, is replaced by the following:

"6. The regulatory body shall ensure that charges set by the infrastructure manager comply with Section 2 of Chapter IV and are non-discriminatory. The regulatory body shall also ensure that charges set by the infrastructure manager and by operators of service facilities for access, including track access, and for the use of passenger stations, their buildings and other facilities, including travel information display, are non-discriminatory and are proportionate to the level of their utilisation by the trains and passengers of the different railway undertakings concerned. In order to ensure that this is achieved, any planned change to the structure or the level of the charges referred to in this paragraph shall be communicated to the regulatory body no later than two months before its entry into force. The regulatory body may require any reduction or increase in the planned change, its deferral to a later date or its cancellation no later than one month before its entry into force.

Negotiations between applicants and an infrastructure manager concerning the level of infrastructure charges shall only be permitted if these are carried out under the supervision of the regulatory body and in a fully transparent manner. The regulatory body shall intervene if negotiations are likely to contravene the requirements of this Chapter."

Or. en

Justification

This amendment aims at preventing sudden and potentially discriminatory changes in access charges from unduly blocking the creation of a new rail passenger service, by ensuring that the regulatory body is informed of any such change beforehand and that it gets an opportunity to check it for non-discrimination and to oppose, amend or defer it, if need be.

Amendment 533

Jean-Jacob Bicep, Isabelle Durant

Proposal for a directive

Article 1 – point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 6

Text proposed by the Commission

Amendment

Article 56, paragraph 6, is replaced by the following:

"6. The regulatory body shall ensure that charges set by the infrastructure manager comply with Section 2 of Chapter IV and are non-discriminatory. The regulatory body shall also ensure that charges set by the infrastructure manager and by operators of service facilities for access, including track access, and for the use of passenger stations, their buildings and other facilities, including travel information display, are non-discriminatory and are proportionate to the level of their utilisation by the trains and passengers of the different railway undertakings concerned. In order to ensure that this is achieved, any planned

change to the structure or the level of the charges referred to in this paragraph shall be communicated to the regulatory body no later than two months before its entry into force. The regulatory body may require any reduction or increase in the planned change, its deferral to a later date or its cancellation no later than one month before its entry into force. Negotiations between applicants and an infrastructure manager concerning the level of infrastructure charges shall only be permitted if these are carried out under the supervision of the regulatory body and in a fully transparent manner. The regulatory body shall intervene if negotiations are likely to contravene the requirements of this Chapter."

Or. en

Justification

This amendment aims at preventing sudden and potentially discriminatory changes in access charges from unduly blocking the creation of a new rail passenger service, by ensuring that the regulatory body is informed of any such change beforehand and that it gets an opportunity to check it for non-discrimination and to oppose, amend or defer it, if need be.

Amendment 534

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 - point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 9

Text proposed by the Commission

Amendment

8c. Subparagraph 3 of Article 56 – paragraph 9 is replaced by the following:

In the event of an appeal against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the regulatory body shall either confirm

that no modification of the infrastructure manager's decision is required, or it shall require modification of that decision in accordance with directions specified by the regulatory body, not later than one month after the appeal is received. The infrastructure manager shall comply as soon as is materially feasible, and in any case not later than one month after receiving notification of the request from the regulatory body.

Or. en

Justification

Existing legislation already contains clear powers for the regulatory body when dealing with capacity allocation. This proposed AM would ensure that regulatory decisions are taken and enforced more rapidly in this area. As already specified in existing legislation (Article 56(9), sub-paragraph 2) the regulatory body is able to apply fines in case of non-compliance.

Amendment 535

Ismail Ertug, Knut Fleckenstein, Georges Bach

Proposal for a directive

Article 1 – point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 9 – subparagraph 3

Text proposed by the Commission

Amendment

Article 56(9), third subparagraph, is replaced by the following:

In the event of an appeal against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, at the latest one month following the appeal submission the regulatory body shall either confirm that no modification of the infrastructure manager's decision is required, or it shall require modification of that decision in accordance with its instructions. The infrastructure operator must comply with the decision as quickly as possible, and at the latest one month after receiving

notification of the regulatory body's decision.'

Or. de

Justification

The regulatory body should take decisions on appeals against the refusal to allocate infrastructure capacity or the conditions attaching to an offer of path capacity within a set time limit.

Amendment 536
Isabelle Durant

Proposal for a directive
Article 1 – point 8 c (new)
Directive 2012/34/EU
Article 56 – paragraph 9 – subparagraph 3

Text proposed by the Commission

Amendment

In Article 56, paragraph 9, subparagraph 3 is replaced by the following:

"In the event of an appeal against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the regulatory body shall either confirm that no modification of the infrastructure manager's decision is required, or it shall require a specific modification of that decision, no later than two months after the appeal is received. The infrastructure manager shall comply as soon as is materially feasible, and in any case no later than one month after receiving notification of the request from the regulatory body".

Or. en

Justification

This amendment aims at making sure that decisions by the regulatory body are taken rapidly and that they are swiftly implemented.

Amendment 537
Jean-Jacob Bicep, Isabelle Durant
Proposal for a directive
Article 1 – point 8 c (new)
Directive 2012/34/EU
Article 56 – paragraphe 9 - subparagraph 3

Text proposed by the Commission

Amendment

In Article 56, paragraph 9, subparagraph 3 is replaced by the following:

"In the event of an appeal against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the regulatory body shall either confirm that no modification of the infrastructure manager's decision is required, or it shall require a specific modification of that decision, no later than two months after the appeal is received. The infrastructure manager shall comply as soon as is materially feasible, and in any case no later than one month after receiving notification of the request from the regulatory body".

Or. en

Justification

This amendment aims at making sure that decisions by the regulatory body are taken rapidly and that they are swiftly implemented.

Amendment 538
Jean-Jacob Bicep, Isabelle Durant
Proposal for a directive
Article 1 – point 8 c (new)
Directive 2012/34/EU
Article 56 – paragraph 10

Text proposed by the Commission

Amendment

In Article 56, paragraph 10 is replaced by the following:

"10. Member States shall ensure that decisions taken by the regulatory body are

subject to judicial review. The appeal may have suspensive effect on the decision of the regulatory body only when the immediate effect of the regulatory body's decision may cause irretrievable or manifestly excessive damages for the appellant or when any party can demonstrate that safety may be at stake. This provision is without prejudice to the powers of the court hearing the appeal as conferred by constitutional law, where applicable."

Or. en

Amendment 539
Ismail Ertug, Knut Fleckenstein, Georges Bach
Proposal for a directive
Article 1 – point 8 c (new)
Directive 2012/34/EU
Article 56 – paragraph 10

Text proposed by the Commission

Amendment

Article 56(10) is replaced by the following:

'10. Member States shall ensure that decisions taken by the regulatory body are subject to judicial review. The appeal may have a suspensory effect on the decision taken by the regulatory body only if that decision may cause immediate irreversible or obviously disproportionate damage to the appellant and if it is not based on Article 56(6) or 56(9) of this Directive. This provision shall be without prejudice to the powers of the court hearing the appeal as conferred by constitutional law, where applicable.

Or. de

Justification

The suspensory effect of appeals should be ruled out in respect of decisions by the regulatory body concerning key functions of the infrastructure operator, charging and capacity

allocation.

Amendment 540

Isabelle Durant

Proposal for a directive

Article 1 – point 8 c (new)

Directive 2012/34/EU

Article 56 – paragraph 10

Text proposed by the Commission

Amendment

In Article 56, paragraph 10 is replaced by the following:

"10. Member States shall ensure that decisions taken by the regulatory body are subject to judicial review. The appeal may have suspensive effect on the decision of the regulatory body only when the immediate effect of the regulatory body's decision may cause irretrievable or manifestly excessive damages for the appellant or when any party can demonstrate that safety may be at stake. This provision is without prejudice to the powers of the court hearing the appeal as conferred by constitutional law, where applicable."

Or. en

Amendment 541

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 - point 8 d (new)

Directive 2012/34/EU

Article 56 – paragraph 10

Text proposed by the Commission

Amendment

8d. Article 56 – paragraph 10 is replaced by the following:

10. Member States shall ensure that

decisions taken by the regulatory body are subject to judicial review. The appeal may have suspensive effect on the decision of the regulatory body only when the immediate effect of the regulatory body's decision may cause irretrievable or manifestly excessive damages for the appellant and when the decision does not relate to Articles 56(6) or 56(9) of this directive. This provision is without prejudice to the powers of the court hearing the appeal as conferred by constitutional law, where applicable.

Or. en

Justification

In keeping with the logic of the essential functions (charging and capacity allocation) being more critical for fair access than other functions, and in order to offer strong guarantees for non-discriminatory access for all undertakings, including in particular new entrants, PKP proposes to exclude the possibility of suspensive effects on regulatory decisions affecting charging and capacity allocation.

Amendment 542
Dominique Riquet
Proposal for a directive
Article 1 – point 8 d (new)
Directive 2012/34/EU
Article 57

Text proposed by the Commission

Amendment

8d. Article 57 is amended as follows:

(a) The following new paragraph 10 is inserted:

'10. An applicant may, if he considers that decisions of one or more infrastructure managers or entities responsible for essential operations are obstructing the development of international services, refer the matter to the national network supervisory authorities directly for an opinion. This

shall be accompanied by referral to the national supervisory authorities concerned.

The network shall, where necessary, seek explanations from the infrastructure managers or entities responsible for essential operations and, in every case, the national supervisory authorities concerned, in accordance with the procedures set out in Article 57(4). The network shall adopt and publish an opinion seeking to facilitate the provision of the international service concerned. The opinion shall be communicated to the national supervisory authorities concerned no later than one month after referral to the network. The national supervisory authorities concerned shall take into account the opinion of the network before taking a decision. They shall then take a decision no later than one month after receipt of the opinion, indicating in writing to the applicant the reasons for any divergences from the opinion.'

(b) A new paragraph 11 is inserted:

'11. The network of national regulatory authorities referred to in Article 57(1) shall adopt its operational rules by consensus or, failing this, by a two-thirds majority vote, with each national regulatory authority having one vote. The network shall elect a chair from among its members and shall submit an annual activity report to the Commission. The Commission shall forward a copy of this annual report to the European Parliament and Council accompanied by its observations where appropriate.

(c) A new paragraph 13 is inserted:

'13. No later than one year from the entry into force of this directive, the Commission shall adopt a legislative proposal with a view to establishing a European network of national regulatory authorities and shall confer on it a legal

personality.'

Or. fr

Amendment 543

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 - point 8 d (new)

Directive 2012/34/EU

Article 57

Text proposed by the Commission

Amendment

8d. In Article 57 the following paragraph 9 a is added:

9a. Where an applicant believes that the decisions of one or more infrastructure managers or bodies in charge of essential functions are hindering the development of cross-border services, the applicant may submit a request for a regulatory opinion directly to the network. This request shall also constitute a request for a decision from the relevant national regulatory body or bodies.

The network shall, if appropriate, require relevant information from the infrastructure managers or bodies in charge of essential functions and, in any case, from the relevant national regulatory bodies, in accordance with the procedure described in Article 57(4). The network shall then issue a non-binding opinion, aiming at facilitating rather than hindering the services in question. The opinion shall be communicated to the relevant national regulatory bodies and to the applicant not later than one month after the request is received. The relevant national regulatory bodies shall take the opinion of the network into consideration before taking their decisions, not later than one month after the opinion of the network is received, and shall justify to the applicant in writing any deviation

from that opinion.

Or. en

Justification

The text offers a new incentive for the development of cross-border services. Where the decisions of infrastructure managers or of bodies in charge of essential functions hinder such services, the network of regulatory bodies would be available as a one-stop-shop for applicants in suggesting a solution to national regulatory bodies, rather than forcing the applicant to approach each national regulatory body separately, thus avoiding potentially conflicting regulatory decisions.

Amendment 544

Antonio Cancian

Proposal for a directive

Article 1 – point 8 d (new)

Directive 2012/34/EU

Article 57 - paragraphs 9a, 9b, 9c, 9d (new)

Text proposed by the Commission

Amendment

8d. Article 57 is amended as follows:

(a) The following new paragraph 9a is inserted:

‘9a. Where an applicant considers that the decisions of one of more infrastructure managers or bodies responsible for the essential functions are impeding the development of cross-border or pan-European services, he may directly request an opinion on this from the network of regulatory bodies. That request will also constitute a request for a decision by the competent national regulatory body or bodies.

The network may, if appropriate, ask for information from the infrastructure managers or bodies responsible for the essential functions and, in all cases, from the competent national regulatory bodies, in accordance with the procedure under Article 57(4). The network must then issue a non-binding opinion aimed at

ensuring that the services forming the subject of the application are facilitated rather than impeded. The opinion must be forwarded to the competent regulatory bodies and to the applicant within one month of the request for that opinion being received. The competent regulatory bodies must consider the opinion issued by the network before reaching their decision, no later than one month after receiving the opinion issued by the network, and must also justify that decision to the applicant if it differs in any way from the opinion issued by the network.'

(b) The following new paragraph 9b is inserted:

'9b. The network of regulatory bodies referred to in Article 57(1) shall adopt its rules of procedure by consensus or, where no consensus can be reached, by a two-thirds majority of votes cast, with each regulatory body having one vote. Networks shall elect a chairman from among their members and forward an annual report on their activities to the Commission. The Commission shall forward these annual reports to the European Parliament and the Council, along with any remarks it deems appropriate.'

(c) The following new paragraph 9c is inserted:

'9c. The Commission shall provide the secretariat for the network of regulatory bodies referred to in Article 57(1). The travel and accommodation costs incurred by their members, observers and experts shall be paid by the Commission in accordance with Commission's internal rules.'

(d) The following new paragraph 9d is inserted:

'9d. The Commission shall by 31 December 2016 adopt a legislative

proposal establishing the network of regulatory bodies and giving it legal personality. That network shall be transitional in nature, pending the establishment of a single European regulatory body.'

Or. it

Justification

Based on the experience in respect of the energy sector on which this amendment is modelled, it is proposed that a network of regulatory bodies be established to strengthen cooperation among national regulators and ensure more uniform implementation of the Community rules. This strengthened network is key to the fair and measured development of the single European railway market. The network of regulatory bodies should constitute a halfway house, pending the establishment of single European regulatory body.

Amendment 545

David-Maria Sassoli, Franco Frigo

Proposal for a directive

Article 1 – point 8 d (new)

Directive 2012/34/EU

Article 57 – paragraphs 9a, 9b, 9c, 9d (new)

Text proposed by the Commission

Amendment

8d. Article 57 is amended as follows:

(a) The following new paragraph 9a is inserted:

'9a. Where an applicant considers that the decisions of one of more infrastructure managers or bodies responsible for the essential functions are impeding the development of cross-border or European services, he may directly request an opinion on this from the network of regulatory bodies. That request will also constitute a request for a decision by the competent national regulatory body or bodies.

The network may, if appropriate, ask for information from the infrastructure managers or bodies responsible for the essential functions and, in all cases, from

the competent national regulatory bodies, in accordance with the procedure under Article 57(4). The network must then issue a non-binding opinion aimed at ensuring that the services forming the subject of the application are facilitated rather than impeded. The opinion must be forwarded to the competent regulatory bodies and to the applicant within one month of the request for that opinion being received. The competent regulatory bodies must consider the opinion issued by the network before reaching their decision, no later than one month after receiving the opinion issued by the network, and must also justify that decision to the applicant if it differs in any way from the opinion issued by the network.'

(b) The following new paragraph 9b is inserted:

'9b. The network of regulatory bodies referred to in Article 57(1) shall adopt its rules of procedure by consensus or, where no consensus can be reached, by a two-thirds majority of votes cast, with each regulatory body having one vote. Networks shall elect a chairman from among their members and forward an annual report on their activities to the Commission. Networks shall elect a chairman from among their members and forward an annual report on their activities to the Commission.'

(c) The following new paragraph 9c is inserted:

'9c. The Commission shall provide the secretariat for the network of regulatory bodies referred to in Article 57(1). The travel and accommodation costs incurred by their members, observers and experts shall be paid by the Commission in accordance with the Commission's internal rules.'

(d) The following new paragraph 9d is

inserted:

'9d. The Commission shall by 31 December 2016 adopt a legislative proposal establishing the network of regulatory bodies and giving it legal personality. That network shall be transitional in nature, pending the establishment of a single European regulatory body.'

Or. it

Amendment 546

Dominique Vlasto, Michel Dantin, Marie-Thérèse Sanchez-Schmid

Proposal for a directive

Article 1 – point 8 d (new)

Directive 2012/34/EU

Article 57 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

8d. In Article 57 paragraph 1, the following subparagraph is added:

In the light of experience acquired through cooperation with the regulatory bodies, the Commission shall, one year after entry into force of the directive, submit a legislative proposal establishing a European regulatory body with a supervisory and arbitration function empowering it to deal with cross-border issues and hear appeals against decisions taken by national regulatory bodies.'

Or. fr

Amendment 547

Ismail Ertug, Knut Fleckenstein, Georges Bach

Proposal for a directive

Article 1 – point 8 d (new)

Directive 2012/34/EU

Article 57 – paragraphs 9a, 9b, 9c, 9d (new)

8d. Article 57 is complemented as follows:

(a) The following new paragraph 9a is inserted:

'9a. If an applicant considers that decisions taken by one or more infrastructure operators or bodies in charge of key functions are hampering the development of cross-border transport services, the applicant may submit directly to the network a request for a regulatory body to issue an opinion. This request shall at the same time constitute a request for a decision by the competent national regulatory body or bodies.

If necessary the network shall ask the infrastructure operator or the bodies in charge of key functions and, at all events, the competent national regulatory body or bodies to provide all relevant information, using the procedure laid down in Article 57(4). The network shall then draw up a non-binding opinion with the aim of securing the implementation of measures which facilitate, rather than hampering, the transport services in question. The opinion shall be forwarded to the competent national regulatory bodies and the applicant at the latest one month following receipt of the application. The competent national regulatory bodies shall take account of the opinion issued by the network before taking their decisions at the latest one month following submission of that opinion, and shall provide the applicant with a written statement of their reasons for departing from the terms of the opinion.'

(b) The following new paragraph 9b is inserted:

9b. The network of regulatory bodies described in Article 57(1) shall adopt its rules of procedure by consensus, and failing that by a two-thirds majority, with

each national regulatory body having one vote. The network shall elect from among its members a chair and shall submit an annual activity report to the Commission. The Commission shall forward the report to the European Parliament and the Council, if appropriate with its comments.

(c) The following new paragraph 9c is inserted:

9c. The Commission shall act as the secretariat for the network described in Article 57(1). The travel and subsistence expenses incurred by members, observers and experts in taking part in the activities of the network shall be reimbursed by the Commission in accordance with the relevant rules in force.'

(d) The following new paragraph 9d is inserted:

9d. At the latest within one year following the entry into force of this Directive, the Commission shall adopt a legislative proposal establishing the network of regulatory bodies as a legal person.'

Or. de

Justification

The network of regulatory bodies should act as the central point of contact for applicants in cases where decisions by infrastructure operators or bodies in charge of key functions hamper transport services. This will serve to reduce administrative costs for applicants, prevent contradictory decisions being taken by different regulatory bodies and thus foster the development of cross-border transport. The network of regulatory bodies should henceforth play the key role in regulating the EU rail transport market and its position should be strengthened accordingly, by means of the adoption of a new legislative proposal.

Amendment 548

Ramon Tremosa i Balcells, Philippe De Backer

Proposal for a directive

Article 1 – point 8 d (new)

Directive 2012/34/EU

Article 57 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

8d. In Article 57, the following new paragraph 9a is added:

9a. The European Commission shall adopt a legislative proposal to establish and make operational the European Regulatory Body not later than 31 December 2019. The new Body is intended to replace the European Network of Regulatory Bodies established with Article 57.

Or. en

Justification

The European Regulatory Body should replace the European network of regulatory bodies by December 2019. If the EU's aim is to develop a Single European Railway Market, the regulatory body must be a European one. We want to avoid seeing EU rules being applied and interpreted differently in each Member State by national regulators, in particular in those cases where National regulatory body are not acting efficiently, are not independent and do not have sufficient staff and resources.

Amendment 549

Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 8 d (new)

Directive 2012/34/EU

Article 57 – paragraph 1

Text proposed by the Commission

Amendment

8d. In Article 57, paragraph 1 is replaced by the following:

'1. The regulatory bodies shall collaborate, coordinate their activities and exchange information about their work and decision-making principles and practice and, in particular, exchange information on the main issues of their procedures and on the problems of interpreting transposed Union railway

law.

They shall otherwise cooperate for the purpose of coordinating their decision-making across the Union, particularly in order to provide cross-border transport services. For this purpose, they shall participate and work together in a network that convenes at regular intervals. The Commission shall be a member and shall coordinate and support the work of the network and make recommendations to the network as appropriate. It shall ensure active cooperation of the appropriate regulatory bodies.'

Or. fr

Amendment 550
Jean-Jacob Bicep
Proposal for a directive
Article 1 – point 8 d (new)
Directive 2012/34/EU
Article 57 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

8d. In Article 57, the following paragraph is added:

9a. In the light of experience acquired through the network of regulatory bodies under paragraph 1 above, the Commission shall, no later than one year after the entry into force of this directive, draw up a legislative proposal to establish the network on a formal basis, conferring on it a legal personality; this body shall have a supervisory and arbitration function empowering it to deal with issues relating to cross-border and international services and to hear appeals against decisions taken by national regulatory bodies.

Or. fr

Amendment 551
Ramon Tremosa i Balcells

Proposal for a directive
Article 1 – point 8 d (new)
Directive 2012/34/EU
Article 57 - paragraphs 9a, 9b, 9c, 9d (new)

Text proposed by the Commission

Amendment

8d. Article 57 is amended as follows:

(a) The following new paragraph 9 a (new) is added:

9a. Where an applicant believes that the decisions of one or more infrastructure managers or bodies in charge of essential functions are hindering the development of cross-border services, the applicant may submit a request for a regulatory opinion directly to the network. This request shall also constitute a request for a decision from the relevant national regulatory body or bodies.

The network shall, if appropriate, require relevant information from the infrastructure managers or bodies in charge of essential functions and, in any case, from the relevant national regulatory bodies, in accordance with the procedure described in article 57(4). The network shall then issue a non-binding opinion, aiming at facilitating rather than hindering the services in question. The opinion shall be communicated to the relevant national regulatory bodies and to the applicant not later than one month after the request is received. The relevant national regulatory bodies shall take the opinion of the network into consideration before taking their decisions, not later than one month after the opinion of the network is received, and shall justify to the applicant in writing any deviation from that opinion.'

(b) The following new paragraph 9b is added:

9b. The network of regulatory bodies referred to in Article 57(1) shall adopt rules of procedure by consensus or, in the absence of consensus, by a two-thirds majority vote, one vote being expressed per national regulatory body. The network shall elect a chairperson from among its members and shall submit an annual report of its activities to the Commission. The Commission shall transmit the annual report to the European Parliament and to the Council, where appropriate with comments.'

(c) The following new paragraph 9c is added:

9c. The Commission shall provide the secretariat of the network of regulatory bodies referred to in Article 57(1). Travel and subsistence expenses incurred by members, observers and experts, in connection with the activities of the network, shall be reimbursed by the Commission in accordance with the provisions in force within the Commission.'

(d) The following new paragraph 9d is added:

9d. The European Commission shall adopt a legislative proposal not later than one year after the entry into force of this directive, to establish the network of regulatory bodies and provide it with legal personality.'

Or. en

Justification

Paragraph 10: It is proposed to offer new support for the development of cross-border services. Where the decisions of infrastructure managers or of bodies in charge of essential functions hinder such services, the network of regulatory bodies would be available as a one-stop-shop for applicants in suggesting a solution to national regulatory bodies, rather than forcing the applicant to approach each national regulatory body separately, thus avoiding potentially conflicting regulatory decisions. Paragraphs 11-13: The network of regulatory bodies should be the emerging central actor for the regulation of the EU railway market. In

order to achieve this, some formalisation of procedures is necessary, followed by a further legislative proposal, in particular in order to give legal personality to the network.

Amendment 552

Bernadette Vergnaud

Proposal for a directive

Article 1 – point 8 e (new)

Directive 2012/34/EU

Article 59 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

In Article 59, the following paragraph 3a is added:

3a. Notwithstanding Article 13(3) of this directive, vertically integrated undertakings managing infrastructures of less than 150 km not connected to the principal network and offering public passenger rail transport services complying with technical specifications diverging substantially from traditional standards shall not be subject to Articles 7 to 7c.

Or. fr

Amendment 553

Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 8 f (new)

Directive 2012/34/EU

Article 60 – paragraph 2

Text proposed by the Commission

Amendment

8f. Paragraph 2 of Article 60 is replaced by the following text:

2. The power to adopt delegated acts referred in Article 11(4), Article 20(5), Article 35(3), Article 43(2) and Article 56(13) shall be conferred on the Commission for a period of five years

from 15 December 2012. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of powers shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension, not later than three months before the end of each period.

Or. fr

Amendment 554
Jean-Jacob Bicep
Proposal for a directive
Article 1 – point 8 f (new)
Directive 2012/34/EU
Article 60 – paragraph 3

Text proposed by the Commission

Amendment

8f. Paragraph 3 of Article 60 is replaced by the following:

3. The delegation of powers referred to in Article 11(4), Article 20(5), Article 35(3), Article 43(2) and Article 56(13) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. fr

Amendment 555
Jean-Jacob Bicep
Proposal for a directive
Article 1 – point 8 f (new)

Text proposed by the Commission

Amendment

8f. In Article 60, paragraph 5 is replaced by the following:

5. A delegated act adopted pursuant to Article 11(4), Article 20(5), Article 35(3), Article 43(2) and Article 56(13) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within two months of notification of that act to the European Parliament and to the Council or if, before expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Or. fr

Amendment 556
Karim Zéribi
Proposal for a directive
Article 1 – point 8 g (new)
Directive 2012/34/EU
Article 61

Text proposed by the Commission

Amendment

8g. Article 61 is replaced by the following:

Subject to the procedure laid down in Article 258 of the Treaty on the Functioning of the European Union, the Commission shall verify the adoption by the national authorities of the specific measures relating to the application of this Directive concerning conditions of access to railway infrastructure and services within twelve months after adoption of those measures.

Justification

The amendment is self-explanatory.

Amendment 557

Jean-Jacob Bicep

Proposal for a directive

Article 1 – point 8 h (new)

Directive 2012/34/EU

Article 62 – paragraph 3

Text proposed by the Commission

Amendment

8h. In Article 62 paragraph 3 is replaced by the following:

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion on the draft implementing act to be adopted, pursuant to Article 10(4), Article 12(5), Article 13(9), Article 17(5), Article 31(3) and (5), Article 34(4) and Article 57(8), the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Justification

If Article 11(4) now requires the Commission to adopt delegated acts, Article 62(3) should be amended accordingly and the reference to Article 11(3) withdrawn.

Amendment 558

Bogdan Kazimierz Marcinkiewicz, Ryszard Antoni Legutko, Artur Zasada

Proposal for a directive

Article 1 - point 9 i (new)

Directive 2012/34/EU

Article 63 – paragraph 1

Text proposed by the Commission

Amendment

9i. In Article 63 – paragraph 1 the following subparagraph is added:

The Commission shall, no later than 18 months after the entry into force of this Directive, assess its impact on the development of the labour market for railway staff.

Or. en

Justification

It is welcome to assess sectorial labour market impacts, not only for on-board staff. Whether and what measures should then follow is another matter.

Amendment 559

Philippe De Backer, Ramon Tremosa i Balcells

Proposal for a directive

Article 1 – point 9

Directive 2012/34/EU

Article 63 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

By 31 December **2024**, the Commission shall evaluate the impact of this Directive on the rail sector and shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on its implementation.

By 31 December **2020**, the Commission shall evaluate the impact of this Directive on the rail sector and shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on its implementation.

Or. en

Amendment 560

Antonio Cancian

Proposal for a directive

Article 1 – point 9

Directive 2012/34/EU

Article 63 – paragraph 1 – subparagraph 1

Text proposed by the Commission

By 31 December 2024, the Commission shall evaluate the impact of this Directive on the rail sector and shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on its implementation.

Amendment

By 31 December 2024, the Commission shall evaluate the impact of this Directive on the rail sector and shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on its implementation. ***That evaluation shall take into account the views expressed by the European Regulatory Body on whether discriminatory practices or other types of distortion of competition persist.***

Or. en

Amendment 561

Philippe De Backer, Ramon Tremosa i Balcells

Proposal for a directive

Article 1 – point 9 a (new)

Directive 2012/34/EU

Article 63 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

9a. In Article 63 the following new paragraph 2a is added:

2a. By 2020, the Commission shall also investigate whether the organisation of the national labour market hampers further market opening, integration and the quality of services provided to the customers. If appropriate, the Commission shall propose new legislative measures to ensure a level playing field for all railway undertakings.

Or. en

Amendment 562
Gilles Pargneaux
Proposal for a directive
Article 1 – point 9
Directive 2012/34/EU
Article 63 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

By the same date, the Commission shall assess whether discriminatory practices or other types of distortion of competition persist in relation to infrastructure managers which are part of a vertically integrated undertaking. The Commission shall, if appropriate, propose new legislative measures.

deleted

Or. fr

Justification

Efforts to ensure non-discrimination must be without prejudice to the means employed and sectoral organisation at EU level to achieve this objective. It must not prevent the infrastructure manager from belonging to a group involved in rail transport operations. Where safeguard measures are identified and guaranteed, it must be possible for all Member States to adopt both governance structures, that is to say vertical separation or integration.

Amendment 563
Dominique Riquet
Proposal for a directive
Article 1 – point 9
Directive 2012/34/EU
Article 63 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

By the same date, the Commission shall assess whether discriminatory practices or other types of distortion of competition persist ***in relation to infrastructure managers which are part of a vertically integrated undertaking.*** The Commission shall, if appropriate, propose new

By the same date, the Commission shall assess whether discriminatory practices or other types of distortion of competition persist. The Commission shall, if appropriate, propose new legislative measures.

legislative measures.

Or. fr

Amendment 564

Ramon Tremosa i Balcells, Philippe De Backer

Proposal for a directive

Article 1 – point 9

Directive 2012/34/EU

Article 63 – paragraph 1 – subparagraph 2

Text proposed by the Commission

By the same date, the **Commission** shall assess whether discriminatory practices or other types of distortion of competition persist ***in relation to infrastructure managers which are part of a vertically integrated undertaking***. The Commission shall, if appropriate, propose new legislative ***measures***.

Amendment

By the same date, the **European Regulatory Body** shall assess whether discriminatory practices or other types of distortion of competition persist ***and shall publish recommendations for further policy measures***. The Commission shall, if appropriate, propose new legislative ***measures based on the recommendations of the network of regulatory bodies***.

Or. en

Justification

The European Regulatory Body should replace the European network of regulatory bodies by December 2019. If the EU's aim is to develop a Single European Railway Market, the regulatory body must be a European one. We want to avoid seeing EU rules being applied and interpreted differently in each Member State by national regulators, in particular in those cases where National regulatory body are not acting efficiently, are not independent and do not have sufficient staff and resources.

Amendment 565

Saïd El Khadraoui

Proposal for a directive

Article 1 a (new)

Regulation (EC) 1371/2007

Article 2 – paragraph 3

Text proposed by the Commission

Amendment

Article 1 a

Regulation (EC) 1371/2007 is amended as follows:

Article 2, paragraph 3 is replaced by the following:

On the entry into force of this Regulation Articles 9, 10, 11, 12, 19, 20(1) and 26 shall apply to all rail passenger services throughout the Community.

Or. en

Justification

This change to Regulation 1371/2007 is necessary to bring this text in line with the new provisions on through ticketing and the use of IT systems. Those are addressed in Article 9 and Article 10. Whereas Article 9 already applies, Member States could grant a temporary exemption from the application of Article 10. In order to create a coherent legal situation, its transposition should become mandatory.

Amendment 566

Gilles Pargneaux

Proposal for a directive

Article 2 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall adopt and publish, by [18 months after entry into force] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall communicate to the Commission the text of those provisions immediately.

Member States shall adopt and publish, by [42 months after entry into force] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall communicate to the Commission the text of those provisions immediately.

Or. fr

Justification

Given the profound modifications to railway systems provided for in the directive, a

transposition period of 42 months is necessary.

Amendment 567

Karim Zéribi

Proposal for a directive

Article 2 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall adopt and publish, by [18 months after entry into force] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall communicate to the Commission the text of those provisions immediately.

Amendment

Member States shall adopt and publish, by [48 months after entry into force] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall communicate to the Commission the text of those provisions immediately.

Or. fr

Justification

The amendment is self-explanatory.

Amendment 568

David-Maria Sassoli, Franco Frigo

Proposal for a directive

Article 2 a (new)

Text proposed by the Commission

Amendment

The Commission shall adopt a legislative proposal establishing a single European regulatory body and rendering it operational by 31 December 2019. That body shall replace the network of national regulatory bodies referred to under Article 57.

Or. it

Amendment 569

Antonio Cancian

Proposal for a directive

Article 2 a (new)

Text proposed by the Commission

Amendment

8i.

The Commission shall adopt a legislative proposal establishing a single European regulatory body and rendering it operational by 31 December 2019. That body shall replace the network of national regulatory bodies referred to under Article 57.

Or. it

Justification

The single European railway market can no longer continue to be regulated by individual national regulators. The strengthened network of national regulatory bodies can act as a temporary instrument which provides experience in the run-up to the establishing of a single European regulator.

Amendment 570
Bogusław Liberadzki

Proposal for a directive
Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2 a (new)

The provisions contained in Articles 7, 7a, 7b, 7c, 7d and 7e shall not apply to vertically integrated undertakings with a track length of less than 500 km whose operation does not have any strategic importance for the functioning of the European railway market.

Or. en

Justification

Small and medium-sized railways with insignificant track length and operation performance, which are not of strategic importance for the functioning of the European railway market, should be exempted from the separation requirements.

Amendment 571
Jean-Pierre Audy
Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union.

Amendment

1. This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union. ***It shall be available in consolidated form with Directive 2012/34/EU amended by it within three months of publication.***

Or. fr

Amendment 572
David-Maria Sassoli, Franco Frigo
Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

2. Points 5 to 8 of Article 1 shall apply from 1 January 2018 [in time for the working timetable starting on 14 December 2019].

Amendment

2. Points 5 to 8 of Article 1 shall apply from 1 January 2018 [in time for the working timetable starting on 14 December 2019]. ***Prior to that date, Member States shall not in any way be required to grant the right of access under Article 10 of the Directive to railway undertakings, or entities under their direct or indirect control, registered in a Member State in which similar rights of access are not granted. For the purpose of this paragraph, ‘control’ shall be defined as consisting of rights, contracts or any other means by which, either separately or in combination, and having regard to any relevant considerations of fact or law, provide the opportunity of exerting a decisive influence on an undertaking, in particular through:***
(a) ownership or the right to use all or part of the assets of an undertaking;

(b) rights or contracts which confer decisive influence on the composition, voting or deliberations of the social organs of an undertaking.

Or. it

Amendment 573

Philippe De Backer, Ramon Tremosa i Balcells

Proposal for a directive

Article 3 – paragraph 2

Text proposed by the Commission

2. Points 5 to 8 of Article 1 shall apply from 1 January **2018** [in time for the working timetable starting on 14 December **2019**].

Amendment

2. Points 5 to 8 of Article 1 shall apply from 1 January **2017** [in time for the working timetable starting on 14 December **2018**].

Or. en

Amendment 574

Antonio Cancian

Proposal for a directive

Article 3 – paragraph 2

Text proposed by the Commission

2. Points 5 to 8 of Article 1 shall apply from 1 January **2018** [in time for the working timetable starting on 14 December **2019**].

Amendment

2. Points 5 to 8 of Article 1 shall apply from 1 January **2017** [in time for the working timetable starting on 14 December **2018**].

The provisions of this Directive shall not require a Member State to grant, before that date, the right of access referred to in Article 10 of this directive to railway undertakings and their directly or indirectly controlled subsidiaries, licensed in a Member State where access rights of a similar nature are not granted.

For the purposes of this paragraph, control shall be constituted by rights,

contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:

(a) ownership or the right to use all or part of the assets of an undertaking;

(b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking.

Or. en

Amendment 575
Saïd El Khadraoui

Proposal for a directive
Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The provisions of this Directive shall not require a Member State to grant, before that date, the right of access referred to in Article 10, paragraph 2 of Directive 2012/34/EU to railway undertakings and their directly or indirectly controlled subsidiaries, licensed in a Member State where access rights of a similar nature are not granted.

Or. en