DRAFT PROPOSAL FOR A DIRECTIVE ON SAFETY ON THE COMMUNITY'S RAILWAYS (COM (2002) 21)

ETSC'S COMMENT

Introduction

The European Commission would like to see a revitalised European railway industry with more technical harmonisation, a single market in equipment, more efficient operation across national borders, and open access to competent new operators from across Europe, especially for rail freight transport.

This vision of the future railway is different from that of the past. The principal form of railway organisation in the second half of the 20th century was the nationalised industry providing and operating track, stations and trains, whose area of operation coincided with national boundaries. Each railway developed its own technical and operating standards, and its own systems for safety regulation and accident investigation. International cooperation primarily took the form of technical standards and timetabling to allow passenger coaches and freight wagons to cross international borders, but seldom locomotives or train crew.

The intended shift in the nature of the railway may have profound implications for safety. This is partly because the many interfaces between the track and the trains will shift from being within a single organisation to being between different organisations, and will require careful management. It is also because the possibility of new operators requires new regulatory machinery, both to test their competence and to approve their operation if they are shown to be competent. In the words of the explanatory memorandum to the Directive, "the opening of the market may not be carried out at the expense of safety, neither should safety be used as an excuse for maintaining status quo".

ETSC believes that many of the proposals, notably for independent safety regulation, independent accident investigation, and the assembly and sharing of safety information, are desirable whatever the future form of the railway. ETSC also agrees that if the Commission's vision of the future development of the European railways is accepted, the other proposals in the Directive are necessary, though there is room for debate about some of the details.

Safety implications of railway reorganisation

A consequence of the creation of an open-access railway is that the key railway safety rules and regulations have to become public and transparent, so that new operators know what requirements they must meet, and authorities acting on behalf of the public can test whether both newcomers and existing operators meet these requirements. The draft Directive proposes that these rules should be created, owned, and enforced by public sector

national railway safety regulators, separate from the infrastructure managers and train operators, whether or not these are also in the public sector. The directive also proposes that the rules themselves should become more and more harmonised across Europe, though it recognises that because of the diversity in the national rail systems, specific national rules will be needed for the foreseeable future.

The Directive accepts the important safety management principle that the organisations controlling each part of the system should have the primary responsibility for managing the risks on that part. Thus the Directive places primary responsibility for the safe provision, operation and management of the infrastructure – the track and control systems – on the infrastructure managers, and for the safe provision and operation of trains on the train operators. A similar division applies in the other transport modes.

However, it is sometimes argued that the technology of railways is such that closer integration is needed between infrastructure and operations than in the other modes. Thus, for example, close compatibility is required between track and trains at the wheel/rail interface, in the control systems, and in the power supplies. In the past, this has been achieved by 'vertical integration', that is having the same body responsible for track and trains. That is not possible in an open-access railway, but there may still be a need for a specific system authority to manage these interfaces. The Directive does not explicitly provide for such an authority but provides for system issues to be covered, in general, by the European and national safety rules and standards, enforced if necessary by the national safety regulator.

ETSC strongly supports the requirement for public railway safety regulation, with transparent rules and believes that there is a need for close integration between track and trains. Close monitoring of the evolving system will be necessary to ensure that safety is maintained.

Independence and transparency of accident investigation

Comprehensive investigation of transport accidents makes an invaluable contribution to improving safety. ETSC believes that to be genuinely effective the investigating organisation must be independent. It must have the authority to investigate whatever accident it sees fit, be independent of the regulator, the infrastructure manager and the railway undertakings and be able to produce its findings, conclusions and recommendations without recourse to higher authority and without interference by any vested interest including the state. Its investigations should be conducted with the minimum of delay. Its investigations should be separate from any legal proceedings. It should be financially independent. Its work should be transparent; all its reports, recommendations and the actions taken (or not taken) following the publication of a report should be made public so as to maintain public confidence.

There should be the fullest possible co-operation between Member States when an accident with an international dimension is being investigated. Lessons learned in one Member State should be shared with others, so that all can benefit from them.

The Directive proposes independent railway accident investigation bodies with the status and functions above. ETSC sees this as a major step towards the improvement of safety, and strongly supports this.

Common safety performance data, indicators and accident reports

Because railway operation has been primarily a national domestic matter, there is a lack of reliable and comparable international information on rail safety. Although some Member States publish accident reports and national safety performance data, there is no satisfactory mechanism at present by which this information is assembled and published at the European level. That in turn makes it difficult to quantify the key European railway safety problems and difficult for the different operators and regulators to learn from the successes and failures of each other.

The Directive proposes a common set of railway safety indicators, covering accidents, incidents and "near-misses", and accident consequences. The national safety authorities are required to assemble these data, aggregate them to the national level, and report them to the proposed European Railway Agency (ERA). They are also required to publish an annual report. The independent accident investigation bodies are required to send copies of their reports to the ERA. Thus for the first time comprehensive safety performance data and accident reports will be available at the European level.

ETSC warmly welcomes these provisions. Because serious railway accidents are rare events, it would be desirable to assemble some of this information retrospectively for a specified past period in order to provide a context for current events.

ETSC
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