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The rail freight sector has proven over the last years that it is not just the most sustainable mode of land transport available for some years to come[1], but also systemically relevant for the European economy – e.g. supply chain disruptions during COVID or Ukraine war – and part of the answer to the energy crisis given it requires 7 times less energy per ton-kilometer than road.

Nevertheless, Europe is a global laggard with respect to modal share of rail. The entire European rail freight sector has developed a comprehensive strategy "30by2030", which aims to increase the modal share of rail together with a technology roadmap which has been formulated and is being implemented by the Rail Freight Forward alliance. Next to "doing our homework" in terms of attractive rail freight products with high quality and productivity, as well as reducing the barriers for shippers to utilize rail freight, there are two mandatory prerequisites for growth of modal share outside our direct influence:

1. We need capacity on the European rail network
2. We need a possibly level playing field vs. road

Both of these prerequisites are currently not be achieved by DB Netze, Germany's rail infrastructure provider, thereby undermining rail freight's competitiveness. Due to the central location of Germany within Europe, and given that over 50% of rail freight crosses at least one border, any decisions by DG Netz have a significant European dimension impacting continental rail freight transportation.

Over the past months, two developments have taken place which undermine rail freight's ability to grow: first through massive construction activities to compensate for the underinvestment in rail infrastructure in the last decades. While mitigating measures are proposed by DB Netze, such as providing Diesel traction services on detours, we are faced with significant capacity restrictions as well as reduced quality and productivity. The second is a significant increase in cancellation fees.

[1] rail-and-waterborne-best.pdf (europa.eu)

While we understand the mid-to-long-term benefits of the construction activities and are open to dialogue to explore how to balance capacity needs and planned works, we completely oppose punitive cancellation fees that will be introduced by DB Netze in 2024 without a useful pre-discussion and not sufficiently taking into account input from the sector, particularly international operators.

Until now, a minimum fee of EUR 0.05/path kilometer was due for the cancellation of train paths more than 30 days before the day of operation, capped at a maximum of EUR 491. According to the new train path price system 2024, DB Netz AG will increase that amount six-fold to EUR 0,30 EUR/path kilometer in the ”Standard“ train segment (corresponds to 15%) for all cancellations from November 30th for the following timetable year for each canceled individual train path - in the worst case for up to 365 days. For a daily train connection of 1,000 km this would be approximately 100,000 EUR. For comparison, passenger services only pay a 2% cancellation fee despite the fact that these services are not subject to economic and supply chain volatility. We feel that this is a strong discrimination against the rail freight sector versus passenger rail, and especially road transport, where there are clearly no cancellation fees. Progressively higher rates of up to 200% apply to all cancellations made with less notice.

To further illustrate how this measure completely ignores market requirements and dynamics we want to sketch out the process. In order for rail freight to provide high quality service for our customers – which is also a prerequisite for high productivity and therefore competitiveness vs. road – we need to order regular train paths. This applies especially to the German infrastructure due to the general and temporary capacity restrictions. This has to be done in April of the prior year. Especially in the current economic environment and given the supply chain disruptions which are being experienced – specifically in continental and maritime traffic – it is obvious that not everything that is jointly planned with our customers in April will be transported in exactly that manner for all of the following year. Volumes, and therefore frequencies change, sourcing and destination markets of our customers and therefore transport routings are prone to change. In all these cases we will be subject to the punitive cancellation fees outlined above.

We are convinced that these new cancellation regulations will create massive false incentives for Railway Undertakings (RUs): the RUs will switch to short-term orders with many operating days, which will lead to an overall more unstable system. For construction site planning, DB Netz will no longer be able to make adequate replacement provisions in the future due to the lack of planned routes, which will lead to transports being immobile. In addition, passing on the cost risk to the end customer will become problematic and additionally fuel intermodal competition to the detriment of rail freight and sustainable land transport.

On top of this, the cancellation rates of 120% for cancellations after the planned departure (up to 20 hours after the planned departure) and 200% (from 20 hours after the planned departure) have been significantly increased compared to previous cancellation regulations, cancellations which are often a direct consequence of problems related to infrastructure works or irregularities and which are inevitable to close the roundtrip of wagon sets.

The argumentation to use the high "no-cancel-fee" to incentivize RUs to cancel their train paths that are not used at least up to 20 hours after departure is understandable. Nonetheless, we find it highly problematic to charge more for an unused service than for a service that is actually used (instead of €3.21/train km €4.03/train km in the “Standard” route segment). The significant difference between the "no-cancel-fee" for freight and passenger, which was set at 150%, is also incomprehensible.

Furthermore, the new cancellation regulations do not provide for any special consideration of extraordinary reasons for cancellation that are beyond the RU's control - not even more than 30 days before the planned departure.

There is also no reciprocity in this scheme and there is no obligation for compensation to the RU in the case of booked capacity being cancelled by the Infrastructure Manager at short notice.

Given the importance of the German network to the entire European railway system, it must be recognized that any scheme introduced by DB Netz, be it positive of negative, will have a direct impact on the European Union’s modal shift objectives. There is a clear responsibility upon policy makers and Infrastructure Managers to ensure there is a framework in place which allows rail freight to achieve the targets set out in the European Sustainable and Smart Mobility Strategy.

In order to adequately take these unavoidable circumstances into account, **we are calling for the mandatory review of reasons for cancellation by DB Netz AG and adjustment of market-compatible cancellation fees in the new train path pricing system for 2024**. Constructive proposals are on the table, e.g. rolling planning, cancellation fees based on total volume of an RU, etc. For the future, there must be a requirement to assess the impact of such changes to charging principles on modal shift in advance.

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