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Subject:	4th Railway Package: <ul style="list-style-type: none">• Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure.- Preparation of an informal trilogue

Delegations will find some Presidency compromise proposals in the fourth column of the table in annex with a view to the upcoming trilogue of 26 January 2016.

**Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU
establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail
and the governance of the railway infrastructure**

2013/0029 (COD)
(Text with EEA relevance)

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
1.	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national Parliaments, Having regard to the opinion of the European Economic and Social Committee ¹ , Having regard to the opinion of the Committee of the Regions ² , Acting in accordance with the ordinary legislative procedure ³ , Whereas:			
2.		Amendment 1 Recital 1		
3.	(1) Over the past decade, the growth of passenger traffic by rail has been insufficient to increase its modal share in comparison to cars and aviation. The 6% modal share of passenger transport for rail in the European Union has remained fairly stable. Rail passenger services have not kept pace with evolving needs in terms of	(1) Over the past decade, <i>the European motorway network has grown by 27 %, but the railway network in use has shrunk by 2 %.</i> <i>Furthermore</i> , the growth of passenger traffic by rail has been insufficient to increase its modal share in comparison to cars and aviation. The 6 % modal share of passenger transport for rail in the European Union has remained fairly	<i>[Proposed recitals not examined in the General Approach]</i>	

¹ OJ C 327, 12.11.2013, p. 122.

² OJ C 356, 5.12.2013, p. 92.

³ Position of the European Parliament of 26 February 2014.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	availability and quality.	stable- <i>and</i> rail passenger services have not kept pace with evolving needs in terms of offer or quality.		
4.		Amendment 2 Recital 1a (new)		
5.		<i>(1a) The principal reasons for rail's insufficient modal share in Europe include unfair competition as regards other modes of transport, a lack of political will to develop rail transport and under-investment in rail networks.</i>		
6.		Amendment 3 Recital 2a (new)		
7.		<i>(2a) The practical effects of the provisions of those Directives need to be assessed by checking the quality of the services provided on the basis of specific facts, tendering and use rates, costs and charges.</i>		
8.		Amendment 4 Recital 2b (new)		
9.		<i>(2b) In order to establish a single European rail area, it is vital for the relevant legislation to be effectively and fully applied in all the Member States within the prescribed time-limits. Given the deficiencies that have been identified in the sector, the Member States should keep a close eye on the implementation of Union legislation.</i>		

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
10.		Amendment 5 Recital 2c (new)		
11.		<i>(2c) Several studies and questionnaires demonstrate that, in Member States that have opened their markets for domestic passenger transport, such as Sweden and the United Kingdom, the railway market has grown, including more satisfied passengers and personnel.</i>		
12.	(2) The Union markets for freight and for international passenger trains have been opened to competition since 2007 and 2010 respectively through Directives 2004/51/EC ⁴ and 2007/58/EC ⁵ . In addition, some Member States have opened their domestic passenger services to competition, either by introducing open access rights or competitive tendering for public service contracts or both.			
13.		Amendment 6 Recital 3		
14.	(3) Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012	(3) Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012		

⁴ OJ L164, 30.4.2004, p. 164.

⁵ OJ L315, 3.12.2007, p. 44.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	establishing a single European railway area ⁶ establishes a single European railway area with common rules on the governance of railway undertakings and infrastructure managers, on infrastructure financing and charging, on conditions of access to railway infrastructure and services and on regulatory oversight of the rail market. With all these elements in place, it is now possible to complete the opening of the Union railway market and reform the governance of infrastructure managers with the objective of ensuring equal access to the infrastructure	establishing a single European railway area ⁵ establishes a single European railway area with common rules on the governance of railway undertakings and infrastructure managers, on infrastructure financing and charging, on conditions of access to railway infrastructure and services and on regulatory oversight of the rail market. With all these elements in place, it is now possible to complete the opening of the Union railway market and reform the governance of infrastructure managers with the objective of ensuring equal access to the infrastructure <i>in order to improve the quality of rail services throughout the Union while safeguarding social standards and employment conditions.</i>		
15.			<i>(3a) A recital could be included to clarify that operation of railway infrastructure is possible as separate structures, vertically integrated undertakings or vertically integrated undertakings combined with outsourcing.</i>	
16.		Amendment 7 Recital 3a (new)		
17.		<i>(3a) The completion of the opening of the Union railway market should</i>		

⁶ OJ L 343, 14.12.2012, p. 32.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>be seen as essential in order to enable rail to become a credible alternative to other modes of transport in terms of price and quality.</i>		
18.		Amendment 8 Recital 4		
19.	(4) Directive 2012/34/EU requires the Commission to propose, if appropriate, legislative measures in relation of the opening of the market for domestic passenger transport services by rail and to develop appropriate conditions to ensure non-discriminatory access to infrastructure, building on the existing separation requirements between infrastructure management and transport operations.	(4) Directive 2012/34/EU requires the Commission to propose, if appropriate, legislative measures in relation of the opening of the market for domestic passenger transport services by rail and to develop appropriate conditions to ensure <i>the most cost efficient</i> non-discriminatory access to <i>infrastructure including incumbent-owned sales</i> infrastructure, building on the existing separation requirements between infrastructure management and transport operations.		
20.			(4a) <i>A recital could be included to clarify that the operation of the railway infrastructure includes control, command and signalling.</i>	
21.			(4b) <i>A recital will be included to clarify that in this context, it should be ensured that the infrastructure is suitable for its designated use.</i>	
22.			(4c) <i>The notion of full independence for the purposes of this definition could be clarified in a recital. The "intermediary entity"</i>	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			<i>should not be understood as a Ministry.</i>	
23.		Amendment 9 Recital 4a (new)		
24.		<i>(4a) The opening of the market for domestic passenger transport will have a positive impact on the working of the European railway market; this will lead to greater flexibility and more possibilities for companies and passengers. Railway personnel will also benefit from the opening, as it will improve their chances of providing their services to new players on the market. Experienced workers can give the new players added value, leading to better labour conditions.</i>		
25.		Amendment 10 Recital 4b (new)		
26.		<i>(4b) Member States are responsible for the organisation of their labour markets for railway personnel. They should however make sure that the way in which the labour market is organised does not harm the quality of the service. Union law already provides for a clear framework for the protection of railway workers.</i>		
27.		Amendment 117 Recital 5		
28.	(5) Better coordination between infrastructure managers and railway	(5) Better coordination between infrastructure managers and railway		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	undertakings should be ensured through the establishment of a coordination committee, in order to achieve efficient management and use of the infrastructure.	undertakings should be ensured through the establishment of a coordination committee, in order to achieve efficient management and use of the infrastructure. <i>In addition, in order to ensure the smooth running of operations in the daily management of the network, including the management of traffic on the network during the winter season, the infrastructure manager at traffic control level should coordinate with railway undertakings, without compromising its independence and responsibility for managing the network and complying with the existing rules.</i>		
29.	(6) Member States should also ensure that all functions necessary to the sustainable operations, maintenance, and development of the rail infrastructure will be managed in a consistent manner by the infrastructure manager itself.			
30.			(6a) <i>The fact that it is the Member State which determines which entity is the <u>main</u> infrastructure manager could be clarified in a recital.</i>	
31.		Amendment 12 Recital 6a (new)		
32.		<i>(6a) In order to secure sufficient and fair competition within the</i>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>European railway area, it is necessary not only to guarantee non-discriminatory access to infrastructure but also to integrate national rail networks and strengthen the regulatory bodies. Such strengthening should take the form of extending the powers of the competent regulatory bodies and developing a network of regulatory bodies which would in future be a key operator in the regulation of the rail transport market in the Union.</i>		
33.		Amendment 13 Recital 6b (new)		
34.		<i>(6b) The infrastructure manager, in exercising all the relevant functions as provided for in this Directive, should be required to use its competences to constantly improve the efficiency of the management of the rail infrastructure with a view to providing high-quality services to its users.</i>		
35.		Amendment 14 Recital 7		
36.	(7) Cross-border issues should be addressed efficiently between infrastructure managers of the different Member States through the establishment of a European network of infrastructure managers.	<i>(7) Without prejudice to Member States' powers as regards infrastructure planning and financing, cross-border issues such as track-access charges should be addressed efficiently between infrastructure managers of the</i>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		different Member States through the establishment of a European network of infrastructure managers.		
37.			<i>(7a) A recital could be included to clarify that the existing structures [concerning European network for coordination] will be given a legal basis.</i>	
38.		Amendment 15 Recital 8		
39.	(8) In order to ensure equal access to the infrastructure, any conflicts of interest resulting from integrated structures encompassing infrastructure management and transport activities should be removed. Removing incentives to discriminate against competitors is the only way to guarantee equal access to the railway infrastructure. It is a requirement for the successful opening of the market for domestic passenger transport services by rail. This should also remove the potential for cross-subsidisation, which exist in such integrated structures, and which also leads to market distortions.	(8) In order to ensure equal access to the infrastructure, any conflicts of interest resulting from integrated structures encompassing should be shaped in such a way that no conflicts of interest arise between infrastructure management and transport activities should be removed . Removing potential incentives to discriminate against competitors is the only way to guarantee equal access to the railway infrastructure. It is a requirement for the successful opening of the market for domestic passenger transport services by rail. This should also remove the potential for cross-subsidisation, which exists in such integrated structures, and which also leads to market distortions, as well as arrangements in respect of staff remuneration and other benefits which might result in preferential		

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>treatment compared to competitors.</i>		
40.		Amendment 16 Recital 9		
41.	(9) The existing requirements for the independence of infrastructure managers from railway transport undertakings, as laid down in Directive 2012/34/EU, only cover the essential functions of the infrastructure manager, which are the decision-making on train path allocation, and the decision-making on infrastructure charging. It is however necessary that all the functions are exercised in an independent way, since other functions may equally be used to discriminate against competitors. This is in particular true for decisions on investments or on maintenance which may be made to favour the parts of the network which are mainly used by the transport operators of the integrated undertaking. Decisions on the planning of maintenance works may influence the availability of train paths for the competitors.	(9) The existing requirements for the independence of infrastructure managers from railway transport undertakings, as laid down in Directive 2012/34/EU, only cover the essential functions of the infrastructure manager, which are the decision-making on train path allocation, and the decision-making on infrastructure charging. It is however necessary that all the functions are exercised in an independent way, since other functions may equally be used to discriminate against competitors. This is in particular true for decisions on <i>access to ticketing services, stations and depots, on</i> investments or on maintenance which may be made to favour the parts of the network which are mainly used by the transport operators of the integrated undertaking. Decisions on the planning of maintenance works may influence the availability of train paths for the competitors.		
42.		Amendment 17 Recital 9a (new)		
43.		<i>(9a) Despite the implementation of the safeguards set out in Directive</i>		

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>2013/34/EU guaranteeing the independence of the infrastructure manager, vertically integrated undertakings could use their structure to give railway operators belonging to such undertakings an undue competitive edge.</i>		
44.	(10) The existing requirements of Directive 2012/34/EU only include legal, organisational and decision-making independence. This does not entirely exclude the possibility of maintaining an integrated undertaking, as long as these three categories of independence are ensured. Concerning the decision-making independence it must be ensured that the appropriate safeguards exclude control of an integrated undertaking over the decision-making of an infrastructure manager. However, even the full application of such safeguards does not completely remove all the possibilities for discriminatory behaviour towards competitors which exist in the presence of a vertically integrated undertaking. In particular, the potential for cross-subsidisation still exists in integrated structures, or at least it is very difficult for regulatory bodies to control and			

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	enforce safeguards which are established to prevent such cross-subsidisation. An institutional separation of infrastructure management and transport operation is the most effective measure to solve these problems.			
45.		Amendment 18 Recital 11		
46.	(11) Member States should therefore be required to ensure that the same legal or natural person or persons are not entitled to exercise control over an infrastructure manager and, at the same time, exercise control or any right over a railway undertaking. Conversely, control over a railway undertaking should preclude the possibility of exercising control or any right over an infrastructure manager.	(11) Member States should therefore be required to ensure that the same legal or natural person or persons are not entitled to exercise control over an infrastructure manager and, at the same time, exercise control or any right over a railway undertaking. Conversely, control over <i>This Directive aims to establish free and fair competition between all railway undertakings, and therefore precludes a railway undertaking should preclude the possibility of exercising control or any right over an infrastructure manager from retaining a vertically integrated model as defined in Article 3.</i>		
47.			(11a) <i>A recital could be included to clarify that complaint procedures are also covered (regarding the influence on appointments and dismissals of persons in charge of taking decisions on the essential functions).</i>	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
48.	(12) Where Member States still maintain an infrastructure manager which is part of a vertically integrated undertaking, they should at least introduce strict safeguards to guarantee effective independence of the entire infrastructure manager in relation to the integrated undertaking. These safeguards should not only concern the corporate organisation of the infrastructure manager in relation to the integrated undertaking, but also the management structure of the infrastructure manager, and, as far as possible within an integrated structure, prevent financial transfers between the infrastructure manager and the other legal entities of the integrated undertaking. These safeguards do not only correspond to what is necessary to fulfil the existing requirements of decision-making independence of the essential functions under Directive 2012/34/EU, in terms of management independence of the infrastructure manager, but go beyond those requirements by adding clauses to exclude that incomes of the infrastructure manager may be used to fund the other entities within the vertically			

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	integrated undertaking. This should apply independently of the application of fiscal legislation of Member States and without prejudice to EU state aid rules.			
49.			(12a) <i>A recital could be included to explain how the relevant provisions of this Directive are applied mutatis mutandis to vertically integrated undertakings where the infrastructure manager and railway undertaking have no distinct legal personality but are organised in distinct divisions within a single undertaking.</i>	
50.			(12b) <i>A recital could be included to specify that the provision of Article 31 does not preclude a Member State from foreseeing that the infrastructure manager revenue from infrastructure charges transits through the State accounts.</i>	
51.			(12c) <i>A recital could be included to clarify that under national law, it may be a legislative act allowing for the outsourcing of the infrastructure manager's functions.</i>	
52.			(12d) <i>A recital could be included to clarify that the owners of the company include the State and any private shareholders to the exclusion of the holding.</i>	
53.			(12e) <i>A recital could be included to</i>	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			<i>clarify that it should be possible for the infrastructure manager to pay this revenue and dividends directly or via another entity within the undertaking.</i>	
54.		Amendment 19 Recital 12a (new)		
55.		<i>(12a) Improving railway safety should be considered seriously during the process of opening the market for domestic passenger transport services by rail, particularly when it comes to reforming the integrated structures currently in place, in order to avoid the creation of additional administrative obstacles compromising the maintenance and improvements of safety.</i>		
56.		Amendment 107 Recital 12b (new)		
57.		<i>(12b) The possibility for an infrastructure manager to pay dividends to the ultimate owner of the vertically integrated undertaking should not prevent the infrastructure manager from constituting reserves in order to improve its financial situation and to balance its accounts over a reasonable period as required by this Directive. All dividend payments of the infrastructure manager should be earmarked to be</i>		

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>used for investments in the renewal of the railway infrastructure in operation.</i>		
58.		Amendment 108 Recital 12c (new)		
59.		<i>(12c) The holding company in a vertically integrated undertaking may contribute to strategic decisions necessary for the good functioning of the railway transport system as a whole in the interest of all parties active in the railway market, without prejudice to the decisions pertaining to the functions of the infrastructure manager.</i>		
60.		Amendment 109 Recital 12d (new)		
61.		<i>(12d) It shall also be possible for the representatives of the ultimate owners of the vertically integrated undertaking in the Supervisory Board to include persons appointed by the ultimate owners but not employed by them, provided they do not have any responsibility or interest in any other entity of the vertically integrated undertaking.</i>		
62.		Amendment 110 Recital 12e (new)		
63.		<i>(12e) The rules ensuring the independence of the infrastructure manager within the vertically integrated undertaking should be</i>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>without prejudice to the Eurostat criteria on government deficit and debt, since in any case the holding, even taking into account the safeguards for the independence of the infrastructure manager, may still retain ownership of the infrastructure and in addition a sufficient number of functions in order not to be considered as a purely artificial entity having as its sole purpose the reduction of government debt within the meaning of those criteria.</i>		
64.	(13) Despite the implementation of the safeguards guaranteeing independence vertically integrated undertakings could abuse of their structure to provide undue competitive advantages for railway operators belonging to such undertakings, For this reason, without prejudice to Art 258 of the Treaty on the Functioning of the European Union, the Commission should verify, upon request of a Member State or on its own initiative, that these safeguards are effectively implemented and that any remaining distortions of competition are removed. In case the Commission is not in a position to confirm that this has been			

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	achieved, all Member States should have the possibility to limit or revoke access rights of the integrated operators concerned.			
65.		Amendment 20 Recital 13a (new)		
66.		<i>(13a) Taking into account the heterogeneity of networks in terms of their size and density and the variety in the organisational structures of national and local or regional authorities and their respective experiences of the process of market opening, each Member State should be given sufficient flexibility to organise its network in such a way that a mix of open-access services and services performed under public service contracts can be achieved in order to ensure a high quality of services readily accessible to all passengers. Following selection of the public service contracts to be put out to tender, each Member State should establish on a case-by-case basis which safeguard mechanisms are to be introduced for each service should the tender procedure not be successfully completed. Those mechanisms should not in any way generate additional charges for the railway undertakings managing those services.</i>		

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
67.		Amendment 21 Recital 14		
68.	(14) Granting Union railway undertakings the right of access to railway infrastructure in all Member States for the purpose of operating domestic passenger services may have implications for the organisation and financing of rail passenger services provided under a public service contract. Member States should have the option of limiting such right of access where it would compromise the economic equilibrium of those public service contracts and where approval has been given by the relevant regulatory body.	(14) Granting Union railway undertakings the right of access to railway infrastructure in all Member States for the purpose of operating domestic passenger services may have implications for the organisation and financing of rail passenger services provided under a public service contract. Member States should have the option of limiting such right of access where it would compromise the economic equilibrium of those public service contracts <i>or the quality of the service that they provide</i> and where approval has been given by the relevant regulatory body.		
69.			(14a) The right of railway undertakings to be granted access to the infrastructure does not affect the possibility for a competent authority to grant exclusive rights in accordance with Article 3 of Regulation (EC) N° 1370/2007 or to award a public service contract directly under the conditions established in Article 5 of the same Regulation. The existence of such a public service contract should not entitle a Member State to	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			prohibit other railway undertakings from accessing the railway infrastructure concerned for the provision of rail passenger services, unless such services would endanger the economic equilibrium of the PSO contract.	
70.		Amendment 22 Recital 15		
71.	(15) Regulatory bodies should assess the potential economic impact of domestic passenger services provided under open access conditions on existing public service contracts following a request made by interested parties and on the basis of an objective economic analysis.	(15) <i>On its own initiative or following a request made by interested parties</i> , regulatory bodies should assess, <i>on the basis of an objective economic analysis</i> , the potential economic impact of domestic passenger services provided under open access conditions on existing public service contracts following a request made by interested parties and on the basis of an objective economic analysis.		
72.	(16) The process of the assessment should take into account the need to provide all market players with sufficient legal certainty to develop their activities. The procedure should be as simple, efficient and transparent as possible and coherent with the process for the allocation of infrastructure capacity.			
73.	(17) The assessment of whether the economic equilibrium of the public			

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	service contract would be compromised should take into account predetermined criteria. Such criteria and the details of procedure to be followed may evolve over time, in particular in the light of the experience of regulatory bodies, competent authorities and railway undertakings and may take into account the specific characteristics of domestic passenger services.			
74.		Amendment 23 Recital 18		
75.	(18) When assessing whether the economic equilibrium of the public service contract would be compromised, regulatory bodies should consider the economic impact of the intended service on existing public service contracts taking into account its impact on the profitability of any services included in such public service contracts and the consequences for the net cost to the competent public authority that awarded the contracts. To make this assessment, factors such as passenger demand, ticket pricing, ticketing arrangements, location and number of stops and the timing and frequency of the proposed new	(18) When assessing whether the economic equilibrium of the public service contract would be compromised, regulatory bodies should consider the economic <i>and social</i> impact of the intended service on existing public service contracts, taking into account its impact on the profitability of any services included in such public service contracts and , the consequences for <i>enhancing cohesion policy in the area concerned and</i> the net cost to the competent public authority that awarded the contracts. To make this assessment, factors such as passenger demand, ticket pricing, ticketing arrangements, location and number of stops and the timing and frequency of		

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	service should be examined.	the proposed new service should be examined.		
76.			<i>(18a) A recital could be included to clarify that Member States may decide that the conditions for granting the right of access to the railway infrastructure for the purpose of operating rail passenger services comprise conditions in order to enable a system of rail passenger services within an integrated timetable scheme.</i>	
77.			(18b) In the process of opening of national rail markets to competition by granting access to the networks to every railway undertaking, Member States should have a sufficiently long transitional period to adapt their national law as well as their national organisation. As a consequence, Member States should be able to maintain their existing national rules on market access until the end of the transitional period.	
78.		Amendment 24 Recital 18a (new)		
79.		<i>(18a) In order to determine whether the quality of the service provided under a public service contract is affected by a free-access service on</i>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>the same network, the regulatory bodies should take into account, in particular, network effects, the maintenance of connections and the punctuality of the services provided under the public service contract.</i>		
80.		Amendment 25 Recital 19		
81.	(19) In order to increase the attractiveness of railway services for passengers, Member States should be in a position to 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. If such a scheme is established, it should be ensured that it does not create market distortion or discriminate between railway undertakings.	(19) In order to increase the attractiveness of railway services for passengers, Member States should be in a position to 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. If Such a scheme is established, it should be ensured ensure that it does not create market distortion or discriminate between railway undertakings.		
82.		Amendment 26 Recital 19a (new)		
83.		<i>(19a) It is important that railway undertakings engage in the development of integrated ticketing schemes, in particular as regards local and regional transport, in order to increase the attractiveness of rail transport for passengers. Such schemes should not create</i>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>market distortion or discriminate between railway undertakings.</i>		
84.		Amendment 27 Recital 19b (new)		
85.		<i>(19b) Since the new package seeks to strengthen passenger rights, and as freedom of movement is one of the basic pillars of the Union, greater efforts should be made to also safeguard that right for disabled persons and for persons with reduced mobility. This makes improving accessibility to means of transport and infrastructure a priority. In order to achieve that objective, cross-border contacts should be encouraged. This also applies to the assistance provided for that specific category of passengers, which should be harmonised within a broader system. A consultation process should be launched in this respect, involving the social partners, the public and organisations for the protection of the rights of disabled persons.</i>		
86.		Amendment 28 Recital 19c (new)		
87.		<i>(19c) In the light of the experience acquired through the network of regulatory bodies provided for in Article 57 of Directive 2012/34/EU, the Commission should, by no later</i>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>than 31 December 2016, draw up a legislative proposal strengthening the network of regulatory bodies, formalising its procedures and giving it legal personality. That body should have a supervisory and arbitration function enabling it to deal with cross-border and international problems and to hear appeals against decisions taken by national regulatory bodies.</i>		
88.		Amendment 29 Recital 19d (new)		
89.		<i>(19d) With a view to completion of the Single European Railway Area, and given the competition in the railway sector, the Commission is committed to actively supporting and encouraging social dialogue at Union level in order to ensure that railway workers are protected in the long term against unwanted effects of market opening, such as social dumping.</i>		
90.		Amendment 30 Recital 19e (new)		
91.		<i>(19e) Passengers should have access to functioning through-ticketing schemes and integrated ticketing schemes. Such schemes would also make railways a more attractive means of transport for people. Through-ticketing schemes</i>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>developed by the sector within Member States should be interoperable with each other in order to enable a Union-wide scheme to be created that encompasses all rail passenger operators.</i>		
92.		Amendment 31 Recital 19f (new)		
93.		<i>(19f) In light of the experience acquired through the network of regulatory bodies established pursuant to Article 57 of Directive 2012/34/EU, the Commission should draw up a legislative proposal to replace the network with a European Regulatory Body, formalising its procedures and giving it legal personality, by no later than 31 December 2019, in time for the opening of domestic passenger transport services by rail. That body should have a supervisory and arbitration function enabling it to deal with cross-border and international problems and to hear appeals against decisions taken by national regulatory bodies.</i>		
94.		Amendment 32 Recital 19g (new)		
95.		<i>(19g) In order to avoid social dumping, a railway undertaking should only be able to provide rail</i>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>transport services if it complies with collective agreements or national laws laying down standards within the Member State in which it intends to act. Provision should therefore be made for equal pay in the same place. The competent regulatory body should monitor compliance with this requirement.</i>		
96.		Amendment 33 Recital 19h (new)		
97.		<i>(19h) The national regulatory body should approve or request changes to the arrangements for the transfer of staff. This may include the application of a cooling-off period for staff who are to be transferred. The regulatory body, when taking its decision, should aim at avoiding the transfer of sensitive information from the infrastructure manager to another entity within the integrated undertaking.</i>		
98.		Amendment 34 Recital 19i (new)		
99.		<i>(19i) The opening of the market should not have any adverse repercussions on the working and social conditions of railway workers. The relevant social clauses should be respected in order to avoid any social dumping or unfair competition by new entrants that fails to respect</i>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>minimum social standards in the railway sector.</i>		
100.		Amendment 35 Recital 19j (new)		
101.		<i>(19j) Railway undertakings and infrastructure managers should establish within their safety culture a 'just culture' in order to actively encourage personnel to report safety related accidents, incidents and near misses without being subject to punishment or discrimination. A just culture enables the railway industry to learn lessons from accidents, incidents and near misses and thereby improve safety on the railway for workers and passengers.</i>		
102.		Amendment 36 Recital 19k (new)		
103.		<p><i>(19k) The Commission should ensure the full and correct enforcement by Member States of the provisions of Council Directive 2005/47/EC^{8a}.</i></p> <p>-----</p> <p>^{8a} <i>Council Directive 2005/47/EC of 18 July 2005 on the Agreement between the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable</i></p>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>cross-border services in the railway sector (OJ L 195, 27.7.2005, p. 15).</i>		
104.		Amendment 37 Recital 19l (new)		
105.		<i>(19l) In the light of the development of the single European railway area and the further opening of the rail transport market, Member States should make use of collective agreements in order to avoid social dumping and unfair competition.</i>		
106.		Amendment 38 Recital 19m (new)		
107.		<i>(19m) The Commission should assess the impact of this Directive on the development of the labour market for railway on-board staff and, if appropriate, propose new legislative measures on the certification of such staff.</i>		
108.		Amendment 39 Recital 19n (new)		
109.		<i>(19n) On-board personnel are a professional group within the railway sector that performs safety-relevant tasks. It traditionally performs operational safety tasks within the railway system and is responsible for the comfort and safety of passengers on board trains. A certification similar to the certification of locomotive drivers is useful in order to guarantee a high</i>		

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>level of qualifications and competences, to recognise the relevance of that professional group for the safety of rail services but also to facilitate mobility of workers.</i>		
110.		Amendment 40 Recital 19o (new)		
111.		<i>(19o) The national regulatory body should approve or request changes to the arrangements for the transfer of staff. This may include the application of a cooling-off period for staff who are to be transferred. The regulatory body, when taking its decision, should aim at avoiding the transfer of sensitive information from the infrastructure manager to another entity within the integrated undertaking.</i>		
112.	(20) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents ⁷ , Member States have undertaken to accompany the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national			

⁷ OJ C 369, 17.12.2011, p. 14.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	transposition instruments in justified cases. With regard to this Directive, the legislator considers the transmission of such documents to be justified,			
113.		Amendment 41 Recital 20a (new)		
114.		<i>(20a) Infrastructure managers should cooperate in cases concerning incidents or accidents with an impact on cross-border traffic, with a view to sharing any relevant information and thereby avoiding negative spill-over effects;</i>		
115.		Amendment 42 Recital 20b (new)		
116.		<i>(20b) The regulatory body should be competent to monitor infrastructure maintenance works so as to ensure that they are not undertaken in a way that leads to discrimination between railway undertakings.</i>		
117.		Amendment 43 Recital 20c (new)		
118.		<i>(20c) The infrastructure manager within a vertically integrated undertaking should be able to offer its staff certain social services in premises that are used by other entities of the vertically integrated undertaking.</i>		
119.		Amendment 44 Recital 20d (new)		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
120.		<i>(20d) The infrastructure manager within a vertically integrated undertaking should be allowed to cooperate with other entities of the vertically integrated undertaking as regards the development of IT systems, subject to the approval of the regulatory body.</i>		
121.		Amendment 45 Recital 20e (new)		
122.		<i>(20e) The conditions for offering tickets, through tickets and reservations throughout the Union, as provided for in Article 9 of Regulation (EC) No 1371/2007, should be considered fulfilled once the common travel information and ticketing scheme is set up by 12 December 2019, in line with the provisions of this Directive.</i>		
123.		Amendment 118 Recital 20f (new)		
124.		<i>(20f) The regulatory body may produce guidelines on the enhancement of the independence of the staff and management of the infrastructure manager within a vertically integrated undertaking with respect to train path allocation and infrastructure charging.</i>		
125.		Amendment 47 Recital 20g (new)		
126.		<i>(20g) Under this Directive, Member</i>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>States are free at any time to choose between different types of structures for infrastructure managers that co-exist within the single European railway area, namely separated and vertically integrated undertakings, even if they have already introduced a separated type of structure. This Directive lays down various rules and principles governing the internal organisation of those structures.</i>		
127.		Amendment 119 Recital 20h (new)		
128.		<i>(20h) For the purpose of this Directive, the concepts of supervisory board, administrative board, management board or bodies legally representing the undertaking should be applied to existing corporate structures in the Member States, while avoiding the creation of additional bodies.</i>		
129.	HAVE ADOPTED THIS DIRECTIVE:			

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
130.	<i>Article 1</i>		<i>Article 1</i>	
131.	Directive 2012/34/EU is amended as follows:		Directive 2012/34/EU is amended as follows:	
132.		Amendment 49 Article 1 – point - 1 (new) Article 1 – paragraph 2a (new)		
133.		<i>-1. In Article 1, the following paragraph is added: '2a. This Directive aims to make rail transport a more attractive means of transport for the European public. It is designed to help to create workable information and integrated ticketing schemes. The through-ticketing schemes developed by the railway sector within Member States should be interoperable with each other in order to enable a Union-wide scheme to be created encompassing all rail passenger operators.'</i>		See Presidency compromise proposal in point 313.
134.		Amendment 50 Article 1 – point - 1a (new) Article 1 – paragraph 2b (new)		
135.		<i>-1a. In Article 1, the following paragraph is added: '2b. The objective of this Directive, which is to complete the single European railway area, will be pursued on the basis of social dialogue at Union level in order to ensure that railway workers are</i>		<u>Presidency compromise proposal (recital)</u> "In pursuing the completion of the Single European Railway Area, Member States should ensure that the provision of railway services occur under socially acceptable conditions."

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>appropriately protected against the unwanted effects of the opening of the market.'</i>		
136.		Amendment 87 Article 1 – point -1b (new) Article 2		
137.		<i>-1b. In Article 2, the following paragraph is inserted:</i>	-1. Article 2 is amended as follows: (a) The first sentence of paragraph 3 is replaced by the following: ‘(3) Member States may exclude the following from the application of Articles 7, 7a, 7b, 7c, 7d, 8 and 13 and Chapter IV:’;	<u>EP AM not acceptable</u> Amendment already covered by Article 2(4) (pt. 143) and Article 2(8a) (pt. 145) of GA text.
138.			(aa) A new paragraph 3a is added:	
139.		<i>'3a. Articles 7, 7a, 7b, 7c, 7d and 7e shall not apply to networks of less than 500 km where:</i> <i>(a) those networks do not have any strategic importance for the functioning of the European railway market; or</i> <i>(b) they are technically and organisationally isolated from the main domestic railway network.'</i>	"3a. Member States may exclude the following from the application of Articles 7, 7a, 7b, 7c, 7d and 8: Local, low-traffic lines of a length not exceeding 100 km, which are used for freight traffic between a mainline and points of origin and destination of shipments along those lines, provided that these lines are managed by entities other than	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			the main infrastructure manager and either a) are used by a single freight operator or b) the essential functions are performed by a body which is not controlled by any railway undertaking. In case there is only a single freight operator, Member States may also exempt it from the application of Chapter IV until capacity is requested by another applicant. This provision can equally be applied where the line is used also, to a limited extent, for passenger services. Member States shall inform the Commission of their intention to exclude such lines from the application of Articles 7, 7a, 7b, 7c, 7d and 8."	
140.			(ab) A new paragraph 3b is added:	
141.			"3b. Member States may exclude the following from the application of Article 7, 7a, 7b, 7c and 7d: Regional low-traffic networks managed by an entity other than the main infrastructure manager and used for the operation of regional passenger services provided by a single railway	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			undertaking other than the incumbent railway undertaking of the Member State, until capacity for passenger services on that network is requested, and provided that the undertaking is independent of any railway undertaking operating freight services. This provision can equally be applied where the line is used also, to a limited extent, for freight services. Member States shall inform the Commission of their intention to exclude such lines from the application of Articles 7, 7a, 7b, 7c and 7d. "	
142.			(b) Paragraph 4 is replaced by the following:	
143.			“(4) Without prejudice to paragraph 3, Member States may exclude local and regional railway infrastructures which do not have any strategic importance for the functioning of the railway market from the application of Articles 8(3) and local railway infrastructures which do not have any strategic importance for the functioning of the railway market from the application of Articles 7, 7a, 7c and Chapter IV. Member States	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			shall notify the Commission of their intention to exclude such railway infrastructures. In accordance with the advisory procedure referred to in Article 62(2), the Commission shall decide whether such railway infrastructure may be considered to be without any strategic importance, taking into account the length of railway lines concerned, their level of use and the traffic volume potentially impacted.';	
144.			(ba) A new paragraph 8a is inserted:	
145.			"(8a) For a period of 10 years after the date of entry into force of the Directive, Member States may exclude from the application of Chapters II and IV of the Directive, with the exception of Articles 10, 13 and 56, isolated railway lines of less than 500 km with a different track gauge than the main domestic network, that connect with a third country where EU rail legislation does not apply and which are managed by a different infrastructure manager than the main domestic network. Railway undertakings operating	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			<p>exclusively on such lines may be exempted from the application of Chapter II.</p> <p>The exemption may be renewed for periods not exceeding 5 years. No later than 12 months before the expiry date of the exemption, a Member State that intends to renew the exemption shall notify the Commission of its intention. The Commission shall examine whether the conditions for an exemption as referred to in the subparagraph above are still met. If those conditions are not met, the Commission shall adopt a decision on the termination of the exemption in accordance with the advisory procedure referred to in Article 62(2)."</p>	
146.			(c) Paragraph 12 is inserted:	
147.			<p>‘(12) Where, in the context of an existing public-private partnership concluded before 16 June 2015, the private party to this partnership is also a railway undertaking responsible for providing passenger railway services on the infrastructure, Member States may continue to exempt such a private party from the application of Articles</p>	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			7, 7a and 7d and limit the right to pick up and set down passengers for services operated by railway undertakings on the same infrastructure as the passenger services provided by the private party under the public-private partnership.'	
148.			(d) Paragraph 13 is inserted:	
149.			"(13) Private infrastructure managers that are part of a public-private partnership concluded before [date of entry into force of the Directive] and that do not receive public funds shall be excluded from the application of Article 7d provided that loans and financial guarantees operated by the infrastructure manager do not benefit directly or indirectly to specific railway undertakings."	
150.	1. Article 3 is amended as follows:		1. Article 3 is amended as follows:	
151.	(a) Point 2 is replaced by the following:		(a) Point 2 is replaced by the following:	
152.	'(2) 'infrastructure manager' means any body or firm ensuring the development, operation and maintenance of railway infrastructure on a network; development includes network planning, financial and investment planning as well as building and		(2) "infrastructure manager" means any body or firm responsible for the operation, maintenance and renewal of railway infrastructure on a network, and for participating in its development as determined by the Member State within the	<u>EP AM not acceptable</u> GA's focus is on the essential functions of the IM as they are crucial to avoid discriminations and negative impacts on competition.

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	upgrades of the infrastructure; operation of the infrastructure includes all elements of the process of train path allocation, including both the definition and the assessment of availability and the allocation of individual paths, traffic management and infrastructure charging, including determination and collection of the charges; maintenance includes infrastructure renewals and the other asset management activities’;		<p>framework of its general policy on development and financing of infrastructure;</p> <p>(2a) "development of the railway infrastructure" means network planning, financial and investment planning as well as the building and upgrading of the infrastructure;</p> <p>(2aa) "operation of the railway infrastructure" means train path allocation, traffic management and infrastructure charging;</p> <p>(2b) "maintenance of the railway infrastructure" means works intended to maintain the condition and capability of existing infrastructure;</p> <p>(2c) "renewal of the railway infrastructure" means major substitution works on the existing infrastructure which do not change its overall performance;</p> <p>(2d) "upgrade of the railway infrastructure" means major modification works of the infrastructure which improve its</p>	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			overall performance; (2e) "essential functions" of infrastructure management means decision making on train path allocation, including both the definition and the assessment of availability and the allocation of individual train paths, and decision-making on infrastructure charging, including determination and collection of charges, in accordance with the charging framework and the capacity allocation framework established by the Member States pursuant to Articles 29 and 39.'	
153.	(b) Point 5 is deleted;		<i>[deleted]</i>	
154.	(c) the following new Point 31 is added:		(b) The following points are added:	
155.	'(31) 'vertically integrated undertaking' means an undertaking where:		'(31) "vertically integrated undertaking" means an undertaking where, in the meaning of Council Regulation (EC) No 139/2004:	<u>EP AM not acceptable</u> - Council text is more balanced and includes a more precise definition. - EP AM does not capture all situations, while Council text reflects more closely the economic reality
156.	- one or several railway undertakings are owned or partly owned by the same undertaking as an infrastructure manager (holding		- an infrastructure manager is controlled by an undertaking which at the same time controls one or several railway	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	company), or		undertakings that operate rail services on the infrastructure manager's network or	
157.	- an infrastructure manager is owned or partly owned by one or several railway undertakings or		- an infrastructure manager is controlled by one or several railway undertakings that operate rail services on the infrastructure manager's network or	
158.	- one or several railway undertakings are owned or partly owned by an infrastructure manager';		- one or several railway undertakings that operate rail services on the infrastructure manager's network are controlled by an infrastructure manager.	
159.			It also means an undertaking consisting of distinct divisions, including an infrastructure manager and one or several divisions providing transport services that do not have a distinct legal personality.	
160.			Where an infrastructure manager and a railway undertaking are fully independent of each other, but both are controlled directly by a Member State without an intermediary entity, they are not considered to constitute a vertically integrated undertaking for the purposes of this Directive.	
161.		Amendment 52 Article 1 – point 1 – points ca and		

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		cb (new) Article 3		
162.		<p><i>(ca) The following point 32 is added: '(32) 'integrated ticketing scheme' means a ticketing system which allows a person to make a journey that involves transfers within or between different transport modes, such as trains, buses, trams, metros, ferries or airplanes;';</i></p> <p><i>(cb) The following point 33 is added: '(33) 'through ticket' means a ticket or tickets representing a transport contract for successive railway services operated by one or more railway undertakings;';</i></p>		<p><u>Presidency compromise proposal</u> (cb) The following point 33 is added: (33) 'through ticket' means a ticket or tickets representing a transport contract for successive railway services operated by one or more railway undertakings;</p> <p>NB: Identical definition of through ticket exists already in Article 3(10) of Regulation (EC) N°1371/2007</p>
163.			(32) "public private partnership" means a binding arrangement between public bodies and one or more undertakings other than the main infrastructure manager of a Member State, under which the undertakings partially or totally construct and/or fund railway infrastructure and/or acquire the right to exercise any of the functions listed in point (2) for a predefined period of time. The arrangement may take any appropriate legally binding form foreseen in national legislation.	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
164.		Amendment 53 Article 1 – point 1 – point cc (new) Article 3		
165.		<p><i>(cc) The following points 34 and 35 are added:</i></p> <p><i>'(34) 'supervisory board' means any group of individuals nominated by the owners of the company to promote their interests, monitor and control the work of the executives and approve the major business management decisions;</i></p> <p><i>(35) 'management board' means any group of individuals in charge of executive functions for the day-to-day management of the company;';</i></p>	<p>(33) "management board" means the senior body of an undertaking performing executive and administrative functions, which is responsible and accountable for day-to-day management of the undertaking.</p> <p>(33a) "supervisory board" means the most senior body of an undertaking that fulfils supervisory tasks, including the exercise of control over the management board and general strategic decisions regarding the undertaking</p>	<p><u>EP AM not acceptable</u> Council and EP agree on substance but Council text of GA is more appropriate.</p> <p>EP wishes to include a definition of conflict of interests to safeguard the impartiality of the IM in relation to traffic management and maintenance planning.</p>
166.		Amendment 54 Article 1 – point 1 – point cd (new) Article 3		
167.		<p><i>(cd) The following point 36 is added:</i></p> <p><i>'(36) 'high speed passenger services' means passenger services operated on specially built high-speed lines equipped for speeds generally equal to or greater than 250 km/h and running at those speeds for most of the journey. ';</i></p>		
168.	2. In Article 6, paragraph 2 is deleted;		2.In Article 6, paragraph 2 is replaced by the following text:	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
169.			"For the purpose of this Article, Member States which apply Article 7a(3) shall require the undertaking to be organised in distinct divisions that do not have a distinct legal personality within a single undertaking."	
170.		Amendment 120 Article 1 – point 2a (new) Article 6a (new)		
171.		<p><i>2a. The following Article 6a is inserted:</i></p> <p><i>'Article 6a</i></p> <p><i>Provided that no conflict of interest arises and that the confidentiality of commercially sensitive information is guaranteed, nothing in this Directive shall prevent Member States from authorising the infrastructure manager to engage in cooperation agreements, in a transparent, non-exclusive and non-discriminatory way, with one or more applicants as regards a specific line or a local or regional part of the network, in such a way as to give financial incentives to increase the efficiency of its cooperation in relation to the part of the network concerned. Such incentives may consist in reductions or increases of track access charges corresponding to possible cost savings or revenue</i></p>		<p><u>EP AM not acceptable</u></p> <p>- The issue of the externalisation/outsourcing of essential functions is already covered by the GA text in Article 7c (pts. 222-226)</p> <p>- Granting additional tasks to the regulatory body, such as the prior approval of cooperation agreements is not acceptable.</p> <p>- Article 7c(3) of the GA text provides for the supervision of cooperation agreements by an independent competent body determined by MS (pt 229)</p>

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<p><i>increases for the railway undertaking or for the infrastructure manager as a result of that cooperation. Such cooperation shall be aimed at delivering more efficient management of disruptions, maintenance works or congested infrastructure, or of a line or a part of the network prone to delays, or at improving safety. Its duration shall be limited to a maximum of five years and shall be renewable. The infrastructure manager shall inform the regulatory body referred to in Article 55 of the planned cooperation. The regulatory body shall give its prior approval to the cooperation agreement, demand its modification or reject it if the above conditions are not fulfilled. It may require the agreement to be modified at any stage throughout the duration of the agreement. The infrastructure manager shall inform the coordination committee referred to in Article 7d about the cooperation agreement. This paragraph shall not apply to cooperation allowed under Articles 7a and 7b between the infrastructure manager and railway undertakings that are parts of the same vertically integrated undertaking.</i></p>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
172.	3. Article 7 is replaced by the following:		3. Article 7 is replaced by the following:	
173.	<i>'Article 7</i>		"Article 7	
174.	Institutional separation of the infrastructure manager		Independence of the infrastructure manager	
175.		Amendment 121 Article 1 – point 3 Article 7 – paragraph 1		
176.	<p>1. Member States shall ensure that the infrastructure manager performs all the functions referred to in Article 3(2) and is independent from any railway undertaking.</p> <p>To guarantee the independence of the infrastructure manager, Member States shall ensure that infrastructure managers are organised in an entity that is legally distinct from any railway undertaking.</p>	<p>1. Member States shall ensure that the infrastructure manager performs all the functions referred to in Article 3(2) and is independent from any railway undertaking.</p> <p><i>Where, on the date of entry into force of this Directive, some items of railway infrastructure as defined in Annex I are owned and managed by undertakings other than the infrastructure manager, Member States may decide that such arrangements are to continue, provided that those undertakings are legally distinct and independent from any railway undertaking.</i></p> <p>To guarantee the independence of the infrastructure manager, Member States shall ensure that infrastructure managers are organised in an entity that is legally distinct from any railway undertaking.</p>	<p>1. Member States shall ensure that the infrastructure manager is responsible for the operation, maintenance and renewal on a network and is entrusted with the development of the railway infrastructure on that network, in accordance with national law.</p>	<p>EP AM is covered in Article 7c(2a) of GA text (pt 228).</p> <p><u>Presidency compromise proposal</u></p> <p>1. Member States shall ensure that the infrastructure manager is responsible for the operation, maintenance and renewal on a network and is entrusted with the development of the railway infrastructure on that network, in accordance with national law.</p> <p>Member States shall ensure that none of the other legal entities within the vertically integrated undertaking have a decisive influence on the decisions of the infrastructure manager in relation to essential functions.</p> <p>Member States shall ensure that members of the</p>

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
				supervisory board and of the management board of the infrastructure manager and the managers directly reporting to them shall act in a non-discriminatory manner. NB: This compromise proposal covers AM 124 (pt 202)
177.			2. Member States shall ensure that the infrastructure manager is organised as an entity that is legally distinct from any railway undertaking and, in vertically integrated undertakings, from any other legal entities within the undertaking.	
178.	2. Member States shall also ensure the same legal or natural person or persons are not allowed:		3. Member States shall ensure that the same individuals cannot be employed at the same time:	<u>Presidency compromise proposal:</u> 3. Member States shall ensure that the same individuals cannot be employed or appointed at the same time:
179.	(a) to directly or indirectly exercise control in the sense of Council Regulation (EC) No 139/2004 ⁸ , hold any financial interest in or exercise any right over a railway undertaking and over an infrastructure manager at the same time;		- as members of the management board of an infrastructure manager and of a railway undertaking,	

⁸ OJ L 24, 29.1.2004, p. 1.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
180.	(b) to appoint members of the supervisory board, the administrative board or bodies legally representing an infrastructure manager, and at the same time to directly or indirectly exercise control, hold any financial interest in or exercise any right over a railway undertaking;		- as persons in charge of taking decisions on the essential functions and as member of the management board of a railway undertaking,	
181.	(c) to be a member of the supervisory board, the administrative board or bodies legally representing the undertaking, of both a railway undertaking and an infrastructure manager;		- where a supervisory board exists, as members of the supervisory board of an infrastructure manager and of a railway undertaking.	NB: EP wishes to extend this provision to members of the management board of the holding company. This indent could be added to the GA text: - as Members of the management board and/or supervisory board of an undertaking exercising control over a railway undertaking and infrastructure manager (i.e. holding company) and as Members of the management board of an infrastructure manager
182.	(d) to manage the rail infrastructure or be part of the management of the infrastructure manager, and at the same time to directly or indirectly exercise control, hold any financial interest in or exercise any right over		<i>[deleted]</i>	This provision is covered in the GA text.

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	a railway undertaking, or to manage the railway undertaking or be part of its management, and at the same time to directly or indirectly exercise control, hold any interest in or exercise any right over an infrastructure manager.			
183.	3. For the implementation of this Article, where the person referred to in paragraph 2 is a Member State or another public body, two public authorities which are separate and legally distinct from each other and which are exercising control or other rights mentioned in paragraph 2 over the infrastructure manager, on the one hand, and the railway undertaking, on the other hand, shall be deemed not to be the same person or persons.		<i>[deleted]</i>	MS shall keep the possibility of having two public authorities depending from the same Ministry.
184.	4. Provided that no conflict of interest arises and that confidentiality of commercially sensitive information is guaranteed, the infrastructure manager may subcontract specific development, renewal and maintenance works, over which it shall keep the decision-making power, to railway undertakings or to any other body acting under the supervision of the infrastructure manager.		4. In vertically integrated undertakings, the members of the management board of the infrastructure manager and the persons in charge of taking decisions on the essential functions shall not receive any financial benefits from railway undertakings or bonuses principally related to the financial performance of particular railway undertakings. They can however be offered	<u>Presidency compromise proposal</u> 4. In vertically integrated undertakings, the members of the management board of the infrastructure manager and the persons in charge of taking decisions on the essential functions shall not receive any performance-based remuneration financial benefits from railway undertakings any other legal entities within the

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			incentives related to the overall performance of the railway system.	undertaking or bonuses principally related to the financial performance of particular railway undertakings. They can however be offered incentives related to the overall performance of the railway system.
185.		Amendment 56 Article 1 – point 3 Article 7 – paragraph 4a (new)		
186.		<i>4a. Provided that the provisions concerning the institutional separation of the infrastructure manager, as laid down in paragraphs 1 to 3, are respected, that no conflict of interest arises and that the confidentiality of commercially sensitive information is guaranteed, Member States may authorise the infrastructure manager to engage in cooperation agreements, in a transparent, non-exclusive and non-discriminatory way, with one or more applicants as regards a specific line or a local or regional part of the network, in such a way as to give such applicant an incentive to increase the efficiency of its cooperation in relation to the part of the network concerned. Such incentives shall consist in reductions of track access charges</i>		EP AM not acceptable - Granting additional tasks to the regulatory body, such as the prior approval of cooperation agreements is not acceptable. - Article 7c(3) of the GA text provides for the supervision of cooperation agreements by an independent competent body determined by MS (pt 229)

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>corresponding to possible cost savings for the infrastructure manager as a result of that cooperation. Such cooperation shall be aimed at delivering more efficient management of disruptions, maintenance works or congested infrastructure, or of a line or a part of the network prone to delays, or at improving safety. Its duration shall be limited to a maximum of five years and shall be renewable. The infrastructure manager shall inform the regulatory body referred to in Article 55 of the planned cooperation. The regulatory body shall give its prior approval to the cooperation agreement, demand its modification or reject it if the above conditions are not fulfilled. It may require the agreement to be modified at any stage throughout the duration of the agreement. The infrastructure manager shall inform the coordination committee referred to in Article 7d about the cooperation agreement.</i>		
187.		Amendment 122 Article 1 –point 3 Article 7 – paragraph 5		
188.	5. Where on the date of entry into force of this Directive, the infrastructure manager belongs to a	5. Where on the date of entry into force of this Directive , the infrastructure manager belongs to a	5. Where information systems are common to different entities within a vertically integrated	<u>Presidency compromise proposal</u> 5. Where information systems

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	vertically integrated undertaking, Member States may decide not to apply paragraphs 2 to 4 of this Article. In such case, the Member State concerned shall ensure that the infrastructure manager performs all the functions referred to in Article 3(2) and has effective organisational and decision-making independence from any railway undertaking in accordance with the requirements set in Articles 7a to 7c.'	vertically integrated undertaking, Member States may decide not to apply paragraphs 2 to 4 of this Article. In such case, the Member State concerned shall ensure that the infrastructure manager performs all the functions referred to in Article 3(2) and has effective organisational and decision-making independence from any railway undertaking in accordance with the requirements set <i>out</i> in Articles 7a to 7e and 7b. ' [undertaking, access to sensitive information relating to essential functions shall be restricted to authorized staff of the infrastructure manager.	are common to different entities within a vertically integrated undertaking, access to sensitive information relating to essential functions shall be restricted to authorized staff of the infrastructure manager. Sensitive information shall not be passed on to other entities within a vertically integrated undertaking.
189.			6. The provisions of paragraph 1 shall be without prejudice to the decision-making rights of Member States as regards the development and funding of railway infrastructure and the competences of Member States as regards infrastructure financing and charging, as well as capacity allocation, as defined in Articles 4(2), 8, 29 and 39."	
190.	4. The following Articles 7a to 7e are inserted:		4. The following Articles 7a to 7g are inserted:	
191.	<i>'Article 7a</i>		"Article 7a	
192.	Effective independence of the infrastructure manager within a vertically integrated undertaking		Independence of the essential functions	
193.		Amendment 123 Article 1 – point 4 Articles 7a		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
194.	1. Member States shall ensure that the infrastructure manager shall be organised in a body which is legally distinct from any railway undertaking or holding company controlling such undertakings and from any other legal entities within a vertically integrated undertaking.	1. Member States shall ensure that the infrastructure manager shall be organised in a body which is legally distinct from any railway undertaking or holding company controlling such undertakings and from any other legal entities within a vertically integrated undertaking.	1. Member States shall ensure that the infrastructure manager has organizational and decision-making independence within the limits set out in Articles 4(2), 29 and 39, as regards the essential functions.	<u>EP AM not acceptable</u> - Council text already provides a solution as regards financial transfers from the IM to the railway operator. - Besides, in GA text, focus is on the essential functions of the infrastructure manager.
195.	2. Legal entities within the vertically integrated undertaking that are active in railway transport services markets shall not have any direct or indirect shareholding in the infrastructure manager. Nor shall the infrastructure manager have any direct or indirect shareholding in any legal entities within the vertically integrated undertaking active in railway transport services markets.	2. Legal entities within the vertically integrated undertaking that are active in railway transport services markets shall not have any direct or indirect shareholding in the infrastructure manager, <i>either directly, indirectly or through subsidiaries</i> . Nor shall the infrastructure manager have any direct or indirect shareholding in any legal entities within the vertically integrated undertaking active in railway transport services markets, <i>either directly, indirectly or through subsidiaries</i> . <i>This provision shall not, however, preclude the existence of a vertically integrated undertaking where one or more railway undertakings are owned or partly owned by the same undertaking as an infrastructure manager (holding company).</i>	2. For the application of paragraph 1, Member States shall ensure in particular that: - a railway undertaking or any other legal entity does not exercise a decisive influence on the infrastructure manager in relation to the essential functions, without prejudice to the role of the Member States as regards the determination of the charging framework and the capacity allocation framework and specific charging rules in accordance with Articles 29 and 39. - a railway undertaking has no decisive influence on appointments and dismissals of persons in charge of taking decisions on the essential functions.	<u>Presidency compromise proposal</u> 2. For the application of paragraph 1, Member States shall ensure in particular that: - a railway undertaking or any other legal entity does not exercise a decisive influence on the infrastructure manager in relation to the essential functions, without prejudice to the role of the Member States as regards the determination of the charging framework and the capacity allocation framework and specific charging rules in accordance with Articles 29 and 39. - a railway undertaking or any other legal entity within the vertically integrated undertaking has no decisive

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			- the mobility of persons in charge of the essential functions does not create conflicts of interest.	influence on appointments and dismissals of persons in charge of taking decisions on the essential functions. - the mobility of persons in charge of the essential functions does not create conflicts of interest.
196.	3. The infrastructure manager's incomes may not be used in order to finance other legal entities within the vertically integrated undertaking but only in order to finance the business of the infrastructure manager and to pay dividends to the ultimate owner of the vertically integrated company. The infrastructure manager may not grant loans to any other legal entities within the vertically integrated undertaking, and no other legal entity within the vertically integrated undertaking may grant loans to the infrastructure manager. Any services offered by other legal entities to the infrastructure manager shall be based on contracts and be paid at market prices. The debt attributed to the infrastructure manager shall be clearly separated from the debt attributed to other	3. The infrastructure manager's incomes may not be used in order to finance other legal entities within the vertically integrated undertaking but only in order to finance the business of the infrastructure manager and to pay dividends. <i>Dividend payments</i> to the ultimate owner of the vertically integrated company <i>shall be possible. Those dividend payments by the infrastructure manager shall be earmarked to be used for investment in the renewal of the infrastructure in operation and shall not prevent the infrastructure manager from constituting reserves in order to manage its profits and losses over the business cycle.</i> <i>These provisions shall not apply to payments to private investors in the case of public-private partnerships.</i> The infrastructure manager may not grant loans to any other legal entities	3. Member States may decide that infrastructure charging and path allocation shall be performed by a charging body and by an allocation body that are independent in their legal form, organisation and decision-making from any railway undertaking. In such a case, Member States may decide not to apply the provisions of Article 7(2) and the third indent of Article 7(3). Article 7(3), first indent and Article 7(4) shall apply mutatis mutandis to the heads of divisions in charge of management of the infrastructure and provision of railway services.	<u>EP AM not acceptable</u> Article 7d of GA text, and the respective recitals (12c) to (12e), are conclusive on the issues of financial transparency. Reference to earmarking is <u>not acceptable</u> in the operative provisions of the directive: - Earmarking of revenues is against the principles of subsidiarity and sovereignty of MS. - Earmarking discourages private investment: if private investors cannot be guaranteed a return, they will not invest. This goes against the philosophy of making the rail sector more competitive. A recital could be included on earmarking (see pt 234)

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	<p>legal entities within the vertically integrated undertaking, and these debts shall be serviced separately. The accounts of the infrastructure manager and of the other legal entities within the vertically integrated undertaking shall be kept in a way that ensures the fulfilment of these provisions and allows for separate financial circuits for the infrastructure manager and for the other legal entities within the vertically integrated undertaking.</p>	<p><i>only to its own subsidiaries.</i> Within the vertically integrated undertaking, and no other legal entity within the vertically integrated undertaking may grant loans to the infrastructure manager <i>loans to the infrastructure manager may only be granted by the holding company and shall be subject to monitoring by the regulatory body referred to in Article 55. The holding company shall demonstrate to the satisfaction of the regulatory body that the loan is granted at market price and that it complies with Article 6.</i></p> <p>Any services offered by other legal entities to the infrastructure manager shall be based on contracts and be paid at market prices. The debt attributed to the infrastructure manager shall be clearly separated from the debt attributed to other legal entities within the vertically integrated undertaking, and these debts shall be serviced separately.</p> <p>The accounts of the infrastructure manager and of the other legal entities within the vertically integrated undertaking shall be kept in a way that ensures the fulfilment of these provisions and allows for</p>		

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		separate financial circuits for the infrastructure manager and for the other legal entities within the vertically integrated undertaking.		
197.	4. Without prejudice to Article 8(4), the infrastructure manager shall raise funds on the capital markets independently and not via other legal entities within the vertically integrated undertaking. Other legal entities within the vertically integrated undertaking shall not raise funds via the infrastructure manager.	<i>[deleted]</i>	4. The provisions of this Directive referring to the essential functions of an infrastructure manager shall apply to the independent charging body and/or allocation body.	
198.	5. The infrastructure manager shall keep detailed records of any commercial and financial relations with the other legal entities within the vertically integrated undertaking and make them available to the regulatory body upon request, in accordance with Article 56(12).	5. The infrastructure manager shall keep detailed records of any commercial and financial relations with the other legal entities within the vertically integrated undertaking and make them available to the regulatory body upon request, in accordance with Article 56(12).	<i>[deleted]</i>	
199.	<i>Article 7b</i>		Article 7b	
200.	Effective independence of the staff and management of the infrastructure manager within a vertically integrated undertaking		Impartiality of the infrastructure manager in respect of traffic management and maintenance planning	
201.		Amendment 124/rev Article 1 – point 4 Articles 7b		
202.	1. Without prejudice to the	1. Without prejudice to the decisions	1. The functions of traffic	EP AM covered by the

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	<p>decisions of the regulatory body under Article 56, the infrastructure manager shall have effective decision-making powers, independent from the other legal entities within the vertically integrated undertaking, with respect to all the functions referred to in Article 3(2). The overall management structure and the corporate statutes of the infrastructure manager shall ensure that none of the other legal entities within the vertically integrated undertaking shall determine, directly or indirectly, the behaviour of the infrastructure manager in relation to these functions.</p>	<p>of the regulatory body under Article 56, the infrastructure manager shall have effective decision-making powers, independent from the other legal entities within the vertically integrated undertaking, with respect to all the functions referred to in Article 3(2) <i>train path allocation and infrastructure charging.</i></p> <p>The overall management structure and the corporate statutes of the infrastructure manager shall ensure that none of the other legal entities within the vertically integrated undertaking shall determine, directly or indirectly, the behaviour of the infrastructure manager in relation to these functions <i>train path allocation and infrastructure charging.</i></p> <p><i>The members of the supervisory board and of the management board of the infrastructure manager and the managers directly reporting to them shall act according to these principles.</i></p>	<p>management and maintenance planning shall be exercised in a transparent and non-discriminatory manner.</p>	<p>Presidency compromise proposal in pt 176.</p>
203.	<p>2. The members of the management board and senior staff members of the infrastructure manager shall not be in the supervisory or management boards or be senior staff members of any other legal</p>	<p><i>[deleted]</i></p>	<p>2. As regards traffic management, Member States shall ensure that railway undertakings have full and timely access to relevant information in cases of</p>	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	<p>entities within the vertically integrated undertaking.</p> <p>The members of the supervisory or management boards and senior staff members of the other legal entities within the vertically integrated undertaking shall not be in the management board or be senior staff members of the infrastructure manager.</p>		<p>disruption concerning them. Where the infrastructure manager grants further access to the traffic management process, it shall do so for the railway undertakings concerned in a transparent and non-discriminatory way.</p>	
204.	<p>3. The infrastructure manager shall have a Supervisory Board which is composed of representatives of the ultimate owners of the vertically integrated undertaking.</p> <p>The Supervisory Board may consult the Coordination Committee referred to under Article 7d on issues under its competence.</p> <p>Decisions regarding the appointment and renewal, working conditions including remuneration, and termination of the office of the management board members of the infrastructure manager shall be taken by the Supervisory Board. The identity and the conditions governing the duration and the termination of office of the persons nominated by the Supervisory</p>	<i>[deleted]</i>	<p>3. As regards the long-term planning of major maintenance and/or renewal of the railway infrastructure, the infrastructure manager shall consult applicants and shall take into account to the best possible extent the concerns expressed.</p>	<p><u>Presidency compromise proposal</u></p> <p>3. As regards the long-term planning of major maintenance and/or renewal of the railway infrastructure, the infrastructure manager shall consult applicants and shall take into account to the best possible extent the concerns expressed.</p> <p>The scheduling of maintenance works shall be done by the infrastructure manager in a non-discriminatory way.</p>

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	<p>Board for appointment or renewal as members of the management board of the infrastructure manager, and the reasons for any proposed decision terminating the office, shall be notified to the regulatory body referred to in Article 55. Those conditions and the decisions referred to in this paragraph shall become binding only if the regulatory body has expressly approved them. The regulatory body may object to such decisions where doubts arise as to the professional independence of a person nominated for the management board or in the case of premature termination of office of a member of the management board of the infrastructure manager.</p> <p>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.</p>			
205.	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	<i>[deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	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.			
206.	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	<p>5. The infrastructure manager shall have its own management 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 <i>Sensitive information held by the infrastructure manager shall be duly protected and shall not be passed on to other entities.</i></p> <p><i>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</i> other legal entities within the</p>	[deleted]	<p>EP AM not acceptable</p> <ul style="list-style-type: none"> - It is covered by Article 7(5) of GA text - "essential functions" are defined in Article 3(2)(2e) GA text; providing social services to staff does not constitute an essential function and is therefore allowed.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	vertically integrated undertaking shall only be possible if it can be ensured that sensitive information will not be passed on between them.	<p>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.</p> <p><i>The infrastructure manager may cooperate with other entities of the vertically integrated undertaking as regards the development of their information systems.</i></p> <p><i>The regulatory body shall approve or request changes to the arrangements concerning the implementation of this paragraph with the aim of ensuring the independence of the infrastructure manager and the other legal entities within the vertically.</i></p> <p><i>The regulatory body may request the integrated undertaking shall only be possible if it can be ensured that sensitive to provide it with any information will not be passed on between them that may be necessary.</i></p>		
207.	6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions independently from the other legal entities within the	6. The infrastructure manager shall have the necessary organisational capacity to perform all of its functions independently from the other legal entities within the	[deleted]	EP AM not acceptable Covered by Article 7c of GA text

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	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.	<p>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.</p> <p><i>Provided that no conflict of interest, market distortion or discrimination arises and that confidentiality of commercially sensitive information is guaranteed, the infrastructure manager may subcontract specific development, renewal and maintenance works, over which it shall keep the decision-making power, to railway undertakings or to any other body acting under the supervision of the infrastructure manager.</i></p>		
208.	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	<i>[deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	exclusively on those of the infrastructure manager.			
209.		Amendments 101 and 125/rev Article 1 – point 4 Articles 7 c		
210.	<i>Article 7c</i>	<i>[Deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>
211.	Procedure of verification of compliance	<i>[Deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>
212.	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.	<i>[Deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>
213.	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.	<i>[Deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>
214.	3. Member States may limit the	<i>[Deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	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:			
215.	(a) no adequate replies to the Commission information requests in accordance with paragraph 2 have been made, or	<i>[Deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>
216.	(b) the infrastructure manager concerned does not fulfil the requirements set out in Articles 7a and 7b, or	<i>[Deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>
217.	(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.	<i>[Deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>
218.	The Commission shall decide within a reasonable period of time.	<i>[Deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
219.	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.	<i>[Deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>
220.	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.	<i>[Deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>
221.			Article 7c	
222.			Outsourcing and sharing the infrastructure manager's functions	
223.			1. Provided that no conflicts of interest arise and the confidentiality of commercially	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			sensitive information is guaranteed, the infrastructure manager may:	
224.			(a) outsource functions to a different entity, provided the latter is neither a railway undertaking, nor controls a railway undertaking, nor is controlled by a railway undertaking;	<u>Presidency compromise proposal</u> (a) outsource functions to a different entity, provided the latter is neither a railway undertaking, nor controls a railway undertaking, nor is controlled by a railway undertaking. Within a vertically integrated undertaking, essential functions shall not be outsourced to any other entity of the vertically integrated undertaking, unless such entity exclusively performs essential functions.
225.			(b) outsource the execution of works and related tasks on development, maintenance and renewal of the railway infrastructure to railway undertakings or companies which control the railway undertaking, or are controlled by the railway undertaking.	
226.			The infrastructure manager shall keep the supervisory power over and carry ultimate responsibility	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			for the exercise of the functions described in Article 3(2). Any entity carrying out essential functions shall comply with Articles 7, 7a, 7b and 7d.	
227.			2. By derogation from Article 7(1), infrastructure management functions may be performed by different infrastructure managers, including parties to public-private partnership arrangements provided that they all fulfil the requirements of Articles 7(2) to (6), 7a, 7b and 7d and assume full responsibility for the exercise of the functions concerned.	
228.			2a. When essential functions are not assigned to a power supply operator, it shall be exempted from the rules applicable to infrastructure managers, provided that compliance with the relevant provisions concerning development of the network, in particular Article 8, is ensured.	
229.			3. Subject to supervision by the independent competent body determined by the Member States, an infrastructure manager may conclude cooperation agreements with one	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			or more railway undertakings in a non-discriminatory way and with a view to delivering benefits to customers such as reduced costs or improved performance on the part of the network covered by the agreement.	
230.			That body shall monitor the execution of such agreements and may, in justified cases, advise that they should be terminated.	
231.			Article 7d	
232.			Financial transparency	
233.			In addition to Article 6, the following provisions shall apply:	
234.			(a) While respecting national procedures applicable in each Member State, income from infrastructure management activities, including public funds, may be used by the infrastructure manager only to finance its own business, including the servicing of its loans, and to pay dividends to the owners of the company, which may include any private shareholders.	<u>Presidency compromise proposal</u> (a) While respecting national procedures applicable in each Member State, income from infrastructure management activities, including public funds, may be used by the infrastructure manager only to finance its own business, including the servicing of its loans, and to pay dividends to the owners of the company, which may include any private shareholders, to the exclusion of the holding company.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
				<p><u>A recital could be included on earmarking, inspired by recital 32 of Directive 2011/76/EU (Eurovignette):</u></p> <p>"While decisions on national public expenditure, including the use of revenues generated under this Directive, are, in line with the principle of subsidiarity, a matter for Member States, dividend payments by the infrastructure manager could be earmarked to be used for investment in the rail infrastructure."</p>
235.			(b) Infrastructure managers shall not grant loans to railway undertakings, either directly or indirectly.	
236.			(bb) Railway undertakings shall not grant loans to infrastructure managers, either directly or indirectly.	
237.			(c) Loans between legal entities of a vertically integrated undertaking, shall only be granted, disbursed and serviced at market rates and conditions which reflect the individual risk profile of the entity concerned.	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
238.			(cc) Loans between legal entities of a vertically integrated undertaking granted before [date of entry into force of this Directive] shall continue until their maturity, provided that they were contracted at market rates and that they are actually disbursed and serviced.	
239.			(d) Any services offered by other legal entities of a vertically integrated undertaking to the infrastructure manager shall be based on contracts and be paid either at market prices or at prices which reflect the cost of production, plus a reasonable margin of profit.	
240.			(dd) Debts attributed to the infrastructure manager shall be clearly separated from debts attributed to other legal entities within vertically integrated undertakings. These debts shall be serviced separately. This does not prevent that the final payment of debts is made via the undertaking mentioned in Article 3 point 31, first indent, or via an another entity within the undertaking.	
241.			(de) The accounts of the infrastructure manager and of	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			the other legal entities within a vertically integrated undertaking shall be kept in a way that ensures the fulfilment of these provisions and allows for separate accounting and transparent financial circuits within the undertaking.	
242.			(f) Within vertically integrated undertakings, the infrastructure manager shall keep detailed records of any commercial and financial relations with the other legal entities within that undertaking.	
243.			Where essential functions are performed by an independent charging and capacity allocation body in accordance with Article 7a(3) and Member States are not applying Article 7(2), the provisions of this Article shall apply mutatis mutandis. References to infrastructure manager, railway undertaking and other legal entities of a vertically integrated undertaking in Article 7d shall be understood as referring to the respective divisions of the undertaking. Compliance with the requirements set out in Article 7d shall be demonstrated in the	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			separate accounts of the respective divisions of the undertaking.	
244.	<i>Article 7d</i>		Article 7e	
245.	Coordination Committee		Coordination mechanisms	Coordination
246.		Amendment 59 Article 1 – point 4 Article 7d – paragraph 1		
247.	1. Member States shall ensure that infrastructure managers set up and organise Coordination Committees for each network. Membership of this committee shall be open at least to the infrastructure manager, known applicants in the sense of Article 8(3) and, upon their request, potential applicants, their representative organisations, representatives of users of the rail freight and passenger transport services and, where relevant, regional and local authorities. Member State representatives and the regulatory body concerned shall be invited to the meetings of the Coordination Committee as observers.	1. Member States shall ensure that infrastructure managers set up and organise Coordination Committees for each network. 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 <i>including the competent authorities</i> . Member State representatives and the regulatory body concerned shall be invited to the meetings of the Coordination Committee as observers.	Where appropriate, Member States shall ensure that appropriate coordination mechanisms are put into place between their main infrastructure managers and all interested railway undertakings and applicants, as referred to in Article 8(3). Representative of users and local/regional authorities may be invited to participate. The coordination shall concern inter alia:	<u>Presidency compromise proposal</u> Where appropriate, Member States shall ensure that appropriate coordination mechanisms are put into place to ensure coordination between their main infrastructure managers and all interested railway undertakings and applicants, as referred to in Article 8(3). Where relevant, representatives of users of the rail freight and passenger transport services, and national, local/regional authorities may shall be invited to participate. The regulatory body concerned may participate as an observer. The coordination shall concern inter alia: NB: This compromise also

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
				covers partly AM 63 (pt 262)
248.	2. The Coordination Committee shall make proposals concerning or advising the infrastructure manager and, where appropriate, the Member State on:		<i>[deleted]</i>	
249.	(a) the needs of applicants related to the maintenance and development of the infrastructure capacity;		(a) the needs of applicants related to the maintenance and development of the infrastructure capacity;	
250.	(b) the content of the user-oriented performance targets contained in the contractual agreements referred to in Article 30 and of the incentives referred to in Article 30(1) and their implementation;		(b) the content of the user-oriented performance targets contained in the contractual agreements referred to in Article 30 and of the incentives referred to in Article 30(1) and their implementation;	
251.	(c) the content and implementation of the network statement referred to in Article 27;		(c) the content and implementation of the network statement referred to in Article 27;	
252.	(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) issues of intermodality and interoperability;	
253.		Amendment 60 Article 1 – point 4 Article 7d – paragraph 2 – point e		
254.	(e) the process for allocation of	(e) the process for allocation of	(e) any other issue related to the	<u>EP AM not acceptable</u>

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	infrastructure capacity, including priority rules for the allocation of capacity between different categories of infrastructure users;	infrastructure capacity, including priority rules for the allocation of capacity between different categories of infrastructure users; <i>the principles of coordination in the event of conflicting requests to operate a rail service shall be governed by Article 46(4);</i>	conditions for access and use of the infrastructure and the quality of the services of the infrastructure manager.	This AM is covered by the modifications incorporated in the GA text.
255.		Amendment 61 Article 1 – point 4 Article 7d – paragraph 2 – point ga (new)		
256.		<i>(ga) issues faced by the users of the rail freight and passenger transport services, including the quality of the service provided, the infrastructure charges, and the level and transparency of the rail service prices.</i>		<u>EP AM not acceptable</u> This AM is covered by the modifications incorporated in the GA text (pt 254).
257.	(f) issues of intermodality;		<i>[deleted]</i>	
258.	(g) any other issue related to the conditions for access and use of the infrastructure and the quality of the services of the infrastructure manager.		<i>[deleted]</i>	
259.		Amendment 62 Article 1 – point 4 Article 7 d – paragraph 2 – subparagraph 2		
260.	The Coordination Committee shall have the power to request relevant information from the infrastructure manager on points (a) to (g) in	The Coordination Committee shall have the power to request relevant information from the infrastructure manager on points (a) to (g) (ga) in	<i>[deleted]</i>	<u>EP AM not acceptable</u>

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	order to be able to carry out these tasks.	order to be able to carry out these tasks, <i>without prejudice to commercial confidentiality</i> .		
261.		Amendment 63 Article 1 – point 4 Article 7d – paragraph 3		
262.	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.	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. <i>The rules of procedure shall provide inter alia for regular consultation, at least once a year, of the users of the rail freight and passenger transport services and of railway sector workers' representatives.</i> A report of the Coordination Committee's discussions shall be submitted annually to the infrastructure manager, the Member State, the regulatory body concerned, <i>users of the rail freight and passenger transport services and the railway sector workers' representatives concerned</i> and the Commission with an indication of the respective positions taken by the Committee members.	[deleted]	<u>EP AM not acceptable</u> This AM is partly covered by the modifications incorporated in the GA text (pt 247). <u>Presidency compromise proposal</u> The infrastructure manager shall draw up and publish guidelines for coordination, in consultation with interested parties. Coordination shall take place at least annually and the infrastructure manager shall publish on its website an overview of the activities undertaken pursuant to this provision. Coordination under this paragraph shall be without prejudice to the right of applicants to appeal to the regulatory body and the powers of the regulatory body as set out in Article 56.
263.	Article 7e		Article 7f	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
264.	European Network of Infrastructure Managers	European Network of Infrastructure Managers	European Network of Infrastructure Managers	
265.		Amendment 64 Article 1 – point 4 Article 7e – paragraph 1		
266.	1. Member States shall ensure that infrastructure managers participate and cooperate in a network to develop the Union rail infrastructure, in particular to ensure timely and efficient implementation of the trans-European transport network, including the core network corridors, rail freight corridors according to Regulation (EU) No 913/2010 ⁹ and the European Rail Traffic Management System (ERTMS) deployment plan laid down in Decision 2012/88/EU ¹⁰ .	1. Member States shall ensure that infrastructure managers participate and cooperate in a network to develop the Union rail infrastructure, <i>and</i> in particular to ensure: <i>(i) timely and efficient implementation of the trans-European transport network, including the core network corridors, rail freight corridors according to Regulation (EU) No 913/2010⁸ and the European Rail Traffic Management System (ERTMS) deployment plan laid down in Decision 2012/88/EU⁹ and</i> <i>(ii) the facilitation of efficient and effective cross-border passenger services within the Union, including through cross-border cooperation to overcome bottlenecks.</i>	1. Member States shall ensure that their main infrastructure managers participate and cooperate in a network that convenes at regular intervals to: (a) develop the Union rail infrastructure, (b) support a timely and efficient implementation of the Single European Railway Area, (c) exchange best practices, (d) monitor performance, and (e) contribute to the market monitoring activities referred to in Article 15.	<u>Presidency compromise proposal</u> 1. Member States shall ensure that their main infrastructure managers participate and cooperate in a network that convenes at regular intervals to: (a) develop the Union rail infrastructure, (b) support a timely and efficient implementation of the Single European Railway Area, (c) exchange best practices, (d) monitor and benchmark performance and (e) contribute to the market monitoring activities referred to in Article 15, (f) tackle cross-border

⁹ OJ L 276, 20.10.2010, p. 22.

¹⁰ OJ L 51, 23.2.2012, p. 51.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
				<p>bottlenecks,</p> <p>(g) discuss the application of Articles 37 and 40</p> <p>with the view to facilitating the provision of efficient and effective rail services within the Union.</p> <p>Coordination under this paragraph shall be without prejudice to the right of applicants to appeal to the regulatory body and the powers of the regulatory body as set out in Article 56.</p>
267.	<i>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.</i>		2. The Commission shall be a member of the network, and shall support its work."	<p><u>Presidency compromise proposal</u></p> <p>2. The Commission shall be a member of the network, and It shall support its work and facilitate coordination.</p>
268.		<i>1a. The network shall also develop common framework principles in respect of charging for cross-border passenger services operating on more than one network as defined in Article 37 and allocation of capacity</i>		EP to provide information on the rationale behind this AM.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>as provided for in Article 40. Those common principles shall be subject to the opinion of the network of regulatory bodies as referred to in Article 57.</i>		
269.		Amendment 65 Article 1 – point 4 Article 7e – paragraph 2		
270.	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.	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 and transparency of the charging framework and charging rules.	<i>[deleted]</i>	<u>EP AM not acceptable</u> The tasks of the European Network of Infrastructure Managers should be limited to the ones listed in Article 7f(1) (pt 266)
271.		Amendment 66 Article 1 – point 4 Article 7e – paragraph 3		
272.	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	3. The Commission may , taking into account the views expressed by the Network, shall adopt measures setting out the common principles and practices of the Network, in particular to ensure consistency in	<i>[deleted]</i>	<u>EP AM not acceptable</u>

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	measures shall be adopted by means of an implementing act in accordance with the procedure referred to in Article 62(3).'	benchmarking, and the procedures to be followed for cooperation in the Network. Those measures shall be adopted by means of an implementing a delegated act in accordance with the procedure referred to in Article 62(3) 60 .		
273.	5. Article 10 is amended as follows:		5. Article 10 is amended as follows:	
274.			(b) a new paragraph 1(a) is added:	
275.			"1(a). Without prejudice to the international obligations of the Union and the Member States, Member States having a border to a third country may limit the right of access provided for in Article 10 for services operated from/to that third country running on a network whose track gauge is different from the main railway network within the EU if distortions of competition arise in cross-border railway transport between Member States and that third country. Such distortions may result, inter alia, from lack of non-discriminatory access to rail infrastructure and related services in the third country concerned.	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
276.			If a Member State, in accordance with this paragraph, intends to adopt a decision to limit right of access, it shall submit the draft decision to the European Commission and consult the other Member States accordingly.	
277.			If, within a period of three months, neither the Commission nor a Member State formulates objections, the Member State may adopt the decision.	
278.			The Commission may adopt measures setting out the details of the procedure and criteria to be followed for the application of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 62(3)."	
279.	(a) paragraph 2 is replaced by the following:		(a) paragraph 2 is replaced by the following:	
280.	'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		"2. Without prejudice to Regulation (EC) N°1370/2007, 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 [...] rail passenger	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	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.';		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."	
281.		Amendment 67 Article 1 – point 5 – point aa (new) Article 10 – paragraph 2a (new)		
282.		<i>(aa) the following paragraph 2a is inserted:</i> <i>'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 a railway undertaking where that undertaking is controlled directly or indirectly by a person or persons from a third country or third countries in which rights of access to infrastructure and service facilities are not granted to Union undertakings on conditions similar to those specified in this Directive. 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</i>		<u>EP AM not acceptable</u> - Drafting depends on the outcome of the discussions on reciprocity clauses. - The external reciprocity clause included in the GA text is tailor-made to address the needs of some specific MS (Article 10 (1a) - pt 275).

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<p><i>involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:</i></p> <p><i>(a) ownership or the right to use all or part of the assets of the undertaking concerned;</i></p> <p><i>(b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking.';</i></p>		
283.	(b) paragraphs 3 and 4 are deleted.		(c) paragraphs 3 and 4 are deleted.	
284.	6. Article 11 is amended as follows:		6. Article 11 is amended as follows:	
285.	(a) paragraph 1 is replaced by the following:		(a) paragraph 1 is replaced by the following:	
286.		<p>Amendment 68</p> <p>Article 1 – point 6 – point a</p> <p>Article 11 – paragraph 1</p>		
287.	<p>‘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.’;</p>	<p>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. <i>High-speed passenger services shall not be limited in their right of access provided for in Article 10(2).</i></p>	<p>‘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.’;</p>	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<p><i>Competent authorities and infrastructure managers shall give advance notice to all interested parties of capacity requests pursuant to Regulation (EC) No 1370/2007 of the European Parliament and of the Council* that may conflict with the rights of access pursuant to Article 10 of this Directive.</i></p> <p><i>All passenger services that are not part of a public service contract shall be referred to as open access services.</i></p> <p><i>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 rights of access of undertakings that provide existing open access services which may be affected by the decision of the competent authority shall not be subject to any limitations.</i></p> <p>-----</p> <p><i>* 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 and repealing Council Regulations (EEC) Nos</i></p>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1).</i>		
288.	(b) the first subparagraph of paragraph 2 is replaced by the following:		(b) the first subparagraph of paragraph 2 is replaced by the following:	
289.		Amendments 69 and 114 Article 1 – point 6 – point b Article 11 – paragraph 2 – subparagraph 1		
290.	'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):	<p>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.</p> <p><i>Those criteria shall cover, inter alia, the impact of the exercise of the right of access on the profitability of any services comprised in the public service contract, including the resulting impacts on the net cost to the competent public authority that awarded the contract, passenger demand, ticket pricing, ticketing arrangements, the location and number of stops and timing and the frequency of the proposed new service, and shall be established by the regulatory body referred to in Article 55 in compliance with the</i></p>	'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):	<p><u>EP AM not acceptable</u></p> <p>There is no need to add these provisions, as the existing provisions and work on implementing acts cover these questions.</p>

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<p><i>measures provided for in paragraph 4 of this Article. The analysis shall assess whether the viability of the services operated under the public service contract would be compromised by a new open access service.</i></p> <p><i>The economic equilibrium of the public service contract shall not be deemed to be compromised if the regulatory body predicts that the prospective new service would be mainly revenue-generating rather than revenue-abstracting for the rail sector, and that the revenue loss for the set of services under the public service contract or contracts, if any, would not be substantial. In accordance with such analysis and the decision of the relevant regulatory body, Member States shall be empowered to authorise, modify or deny the right of access for the passenger service sought.</i></p> <p><i>2a. Where a public service contract is awarded through a competitive public tendering procedure in accordance with Union law, Member States may, in accordance with Regulation (EC) No 1370/2007, limit the right of access provided for in</i></p>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<p><i>Article 10(2) of this Directive for the duration of that public service contract on services between a place of departure and a destination which are covered by that public service contract. The information that the right of access is limited shall be made public when the tendering procedure for that public service contract is launched. Any additional new service within the meaning of Article 10(2) which is predicted by the regulatory body to be mainly revenue-generating rather than revenue-abstracting for the rail sector and in respect of which the revenue loss for the set of services under the public service contract, if any, is predicted not to be substantial shall not be limited in its access.</i></p> <p><i>The limitations referred to in this paragraph shall not have the effect of restricting the right to pick up passengers at any station located along the route of an international service and to set them down at another, including at stations located in the same Member State.</i></p> <p><i>2b. The regulatory body or bodies performing the analyses referred to in paragraphs 2 and 2a make its or</i></p>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>their determination</i> after a request from any of the following, submitted within one month from <i>receipt of</i> the information on the intended passenger service referred to in Article 38(4):		
291.	(a) the competent authority or competent authorities that awarded the public service contract;	(a) the competent authority or competent authorities that awarded the public service contract;	(a) the competent authority or competent authorities that awarded the public service contract;	
292.	(b) any other interested competent authority with the right to limit access under this Article;	(b) any other interested competent authority with the right to limit access under this Article;	(b) any other interested competent authority with the right to limit access under this Article;	
293.	(c) the infrastructure manager;	(c) the infrastructure manager;	(c) the infrastructure manager;	
294.	(d) the railway undertaking performing the public service contract.’;	(d) the railway undertaking performing the public service contract;	(d) the railway undertaking performing the public service contract.	
295.		<i>(da) the railway undertaking that has requested capacity in accordance with Article 38(4).</i>		<u>EP AM not acceptable</u>
296.		Amendment 70 Article 1 – point 6 – point c Article 11 – paragraphs 3 and 4		
297.	(c) paragraph 3 is replaced by the following:	c) <i>paragraphs 3 and 4</i> are replaced by the following:	(c) paragraph 3 is replaced by the following:	
298.	‘3. The regulatory body shall give the grounds for its decision and the conditions under which a reconsideration of the decision within one month of its notification may be requested by one of the following:’,	3. The regulatory body shall give the grounds for its decision and the conditions under which a reconsideration of the decision within one month of its notification may be requested by one of the following:’,	‘3. The regulatory body shall give the grounds for its decision and the conditions under which a reconsideration of the decision within one month of its notification may be requested by one of the following:	
299.	(a) the relevant competent authority or competent authorities;	(a) the relevant competent authority or competent authorities;	(a) the relevant competent authority or competent authorities;	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
300.	(b) the infrastructure manager;	(b) the infrastructure manager;	(b) the infrastructure manager;	
301.	(c) the railway undertaking performing the public service contract;	(c) the railway undertaking performing the public service contract;	(c) the railway undertaking performing the public service contract;	
302.	(d) the railway undertaking seeking access.';	(d) the railway undertaking seeking access.';	(d) the railway undertaking seeking access.	
303.	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.';	In case Where the regulatory body decides in accordance with paragraph 2 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.	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.';	This amendment appears to be mainly editorial Further information from EP is welcomed to explain the need for this AM.
304.			(d) In paragraph 4, a second sentence is added as follows:	
305.	<i>[No changes in the Commission proposal]</i>	4. Based on the experience of regulatory bodies, competent authorities and railway undertakings and based on the activities of the network referred to in Article 57(1), the Commission shall adopt by 16 December 2016 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. Those delegated acts shall be adopted in accordance with the procedure referred to in Article	"The Commission shall adopt comparable measures by [36 months from the entry into force	<u>EP AM not acceptable</u> - Council in favour of keeping implementing acts (and not delegated acts) as already foreseen in Article 11(4) of the existing Directive. An implementing act exists for the international passenger services; what is the rationale of a delegated act for domestic passenger services? - Highly complex area requires the involvement of rail experts,

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		60.	of this Directive] in relation to domestic passenger services."	as well as its strong impact on MS's investments
306.	(d) paragraph 5 is deleted.		(e) paragraph 5 is replaced by the following:	
307.			<p>"5. Member States may also limit the right of access to railway infrastructure for the purpose of operating domestic passenger services between a given place of departure and a given destination within the same Member State when:</p> <ul style="list-style-type: none"> - exclusive rights to convey passengers between these stations have been granted under a public service contract awarded before 16 June 2015 or - an additional right / license to operate commercial passenger services in competition with another operator between these stations has been awarded before the end of the transposition period of this Directive on the basis of a fair competitive tendering procedure <p>and where these operators receive no compensation to operate these services. Such a limitation may continue for the original duration</p>	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			of the contract or license, or 10 years from the date of entry into force of this Directive, whichever is shorter."	
308.	7. The following Article 13a is inserted:		7. The following Article 13a is inserted:	
309.	<i>'Article 13a</i>		<i>'Article 13a</i>	
310.		Amendment 71 Article 1 – point 7 Article 13a – title		
311.	Common information and integrated ticketing schemes	Common information and ticketing schemes	Common information and integrated ticketing schemes	Common information and integrated through-ticketing schemes
312.		Amendment 72 Article 1 – point 7 Article 13a – paragraph 1		
313.	1. Without prejudice to Regulation (EC) No 1371/2007 ¹¹ and Directive 2010/40/EU ¹² , 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	1. <i>All timetabling data shall be deemed to constitute public data and shall be made available accordingly.</i> <i>Notwithstanding Regulation (EC) No 1371/2007 and Directive 2010/40/EU, Member States shall require all rail stakeholders such as railway undertakings, infrastructure managers and ticket vendors to use by 12 December 2019 an interoperable through-ticketing and information system that fulfils the objective of enabling passengers to</i>	1. Without prejudice to Regulation (EC) No 1371/2007 ¹⁰ and Directive 2010/40/EU ¹¹ , 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	EP insists on compromise text that emphasizes the importance of through ticketing schemes. <u>Presidency compromise proposal for a recital:</u> "Given the importance of promoting seamless public transport systems, railway undertakings should be encouraged to cooperate towards the development of integrated information and

¹¹ OJ L315, 3.12.2007, p. 14.

¹² OJ L207, 6.8.2010, p. 1.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	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.	<p><i>access all data needed to plan a journey and to reserve and buy their tickets within the Union.</i></p> <p><i>Member States shall require railway undertakings to cooperate in setting up, by 12 December 2019, a common travel information and ticketing scheme for the supply of tickets, through-tickets and reservations for all public passenger transport by rail provided under a public service contract pursuant to Regulation (EC) No 1370/2007 or shall decide to empower relevant authorities to set up such a scheme. The scheme shall not create market distortion or discriminate between railway undertakings. It shall be managed by a public or private legal entity or by an association of all railway undertakings operating passenger services.</i></p> <p><i>Railway undertakings operating commercial public passenger services shall have non-discriminatory access to the scheme for the purpose of providing information on, and selling tickets for, public passenger transport by rail as an add-on to their own transport services.</i></p>	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.	<p>ticketing systems enabling multimodal, cross-border and door-to-door mobility options.</p> <p>Through ticketing systems should be interoperable and non-discriminatory. Railway undertakings could contribute to their development by making available in a non-discriminatory manner all relevant data in an interoperable format. Such systems should not discriminate between railway undertakings and respect the need to ensure confidentiality of commercial information, protection of personal data and compliance with competition rules.</p> <p>The Commission should monitor market developments."</p>

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<p><i>Any system shall be devised in such a way as to be interoperable in accordance with Directive 2008/57/CE and the basic technical specifications on telematic applications. It shall apply those technical requirements in order to ensure, in particular, consistency in charging and clearing, confidentiality of commercial information, protection of personal data and compliance with competition rules. Any system or application offering additional services to passengers shall be interoperable with those technical specifications.</i></p> <p><i>Member States shall ensure that access to the basic technical specifications on telematic applications is open and non-discriminatory.</i></p> <p><i>Any commercial agreement between participants shall be in conformity with competition rules.</i></p> <p><i>The costs of such a system shall be divided fairly among the participants, in a manner which reflects their respective contributions.</i></p>		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<p><i>The regulatory body shall ensure that any such through-ticketing system does not create market distortion or discriminate between railway undertakings.</i></p> <p>Member States may <i>also</i> require railway undertakings operating domestic passenger services <i>and providers of passenger transport by other modes of transport</i> to participate in a common <i>interoperable travel</i> information and integrated ticketing scheme for the supply of tickets, through-tickets and reservations or decide to give the power to competent <i>relevant</i> 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 <i>and other providers of passenger transport</i> and that it is managed by a public or private legal entity or an association of all railway undertakings operating passenger services.</p>		
314.		<p>Amendment 73 Article 1 – point 7 Article 13a – paragraph 2</p>		
315.	2. Member States shall require	2. Member States shall require	2. Member States shall require	<u>EP AM not acceptable</u>

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	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.'	railway undertakings operating passenger services to put in place and coordinate set up, and coordinate, including with respect to major routes within the Union, national contingency plans to provide assistance to passengers, in the sense of Article 18 of Regulation (EC) No 1371/2007, taking account of Commission Decision 2008/164/EC* , in the event of a major disruption to services triggered by a natural or man-made disaster. Each railway undertaking operating passenger services and each station manager shall put in place its own contingency plan in accordance with national contingency plans. ----- * Commission Decision 2008/164/EC of 21 December 2007 on technical specifications for interoperability as regards 'persons of reduced mobility' in the trans-European conventional and high-speed rail system (OJ L 64, 7.3.2008, p. 72).	railway undertakings operating passenger services to put in place contingency plans and shall ensure that these contingency plans are properly coordinated 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.'	GA text is more streamlined and proportionate. EP AM creates unnecessary administrative burden.
316.		Amendment 74 Article 1 – point 7a (new) Article 19 – point da (new)		
317.		7a. In Article 19, the following point is added: '(da) have undertaken to apply the respective collective agreements of		Drafting depends on the outcome of the discussions on social provisions

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>the Member States in which the undertaking wishes to operate.';</i>		
318.			13. Article 32(4) is amended as follows:	
319.			"The infrastructure charges for the use of railway corridors which are specified in Commission Decision 2009/561/EC may be differentiated to give incentives to equip trains with the ETCS compliant with the version adopted by the Commission Decision 2008/386/EC and successive versions. Such differentiation shall not result in any overall increase in revenue for the infrastructure manager.	
320.			Member States may decide that this differentiation of infrastructure charges does not apply to railway lines specified in Decision 2009/561/EC on which only ETCS equipped trains may run.	
321.			Member States may decide to extend this differentiation to railway lines not specified in Decision 2009/561/EC."	
322.	8. In Article 38, paragraph 4 is replaced by the following:		8. In Article 38, paragraph 4 is replaced by the following:	
323.	'4. Where an applicant intends to request infrastructure capacity with		'4. Where an applicant intends to request infrastructure capacity with	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
	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.'		a view to operating a passenger service, in a Member State where the right of access to railway infrastructure is limited in accordance with Article 11 , 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 10 days.'	
324.		Amendment 75 Article 1 – point 8a (new) Article 42 – paragraph 1 (new)		
325.	<i>[No changes to Article 42 in the Commission proposal]</i>	8a. In Article 42, the following paragraph 1a is inserted:		<u>EP AM not acceptable</u> - EP AM already covered by existing Article 56 (1)(f) on

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>'1a. With a view to preventing discrimination against applicants, the regulatory body referred to in Article 55 of this Directive shall give prior approval to such a framework agreement and shall oversee a framework agreement in force on its own initiative. An applicant shall have the right to appeal to the regulatory body if it believes that it has been unfairly treated or discriminated against, or if it 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 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 by the regulatory body. The infrastructure manager and the railway undertaking shall comply with the regulatory body's decision as soon as is materially feasible, and in any case not later than one month after receiving notification of that decision from the regulatory body. Whilst performing the functions</i>		<p>arrangements for access.</p> <ul style="list-style-type: none"> - Implementing act under discussion at expert level as regards the framework agreement. - It should be for the MS to give a prior approval, not for the regulatory body. It should intervene afterwards, as a judge, not as a "legislator". - An ex post control provides enough powers to the regulatory body to redress possible problems.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>described in this paragraph, the regulatory body shall pay particular attention to the protection of business secrets.</i>		
326.		Amendment 76 Article 1 – point 8b (new) Article 46 – paragraph 4		
327.	<i>[No changes to Article 46 in the Commission proposal]</i>	8b. In Article 46, paragraph 4 is replaced by the following: '4. The principles governing the coordination process shall be set out in the network statement. These shall, in particular, reflect the difficulty of arranging international train paths and the effect that modification may have on other infrastructure managers. In the event of conflicting requests to operate a rail service in the same market segment, the infrastructure manager, when allocating capacity, shall take into consideration only the infrastructure disputed and not the overall volume of capacity requested by the competing applicants.'		Clarification on this AM to be provided by EP
328.		Amendment 77 Article 1 – point 8c (new) Article 54 – paragraph 1		
329.	<i>[No changes to Article 54 in the Commission proposal]</i>	8c. In Article 54, paragraph 1 is replaced by the following: '1. In the event of disturbance to		<u>EP AM acceptable</u>

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		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. <i>In the event 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.</i>		
330.		Amendment 78 Article 1 – point 8d (new) Article 55 – paragraph 3a (new)		
331.	[No changes to Article 55 in the Commission proposal]	8d. <i>In Article 55, the following paragraph is added:</i> '3a. <i>Member States shall ensure that the regulatory bodies have the necessary organisational and operational resources referred to in Article 56 of this Directive and shall, where necessary, adopt an action plan for the purpose of providing</i>		<u>EP AM not acceptable</u> EP AM is covered in Article 56(5) of the current Directive.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>them with those resources.';</i>		
332.		Amendment 79 Article 1 – point 8e (new) Article 56		
333.	<i>[No changes to Article 56 in the Commission proposal]</i>	8e. Article 56 is amended as follows:	10. In Article 56(1), the following letters (h), (i) and (j) are inserted:	
334.		‘Article 56 Functions of the regulatory body		Drafting depends on the outcome of the discussions on the role of the regulatory body EP indicated they would let us know which specific ex ante functions it wishes to grant to the regulatory body
335.		1. Without prejudice to Article 46(6), an applicant shall 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, and in particular against decisions adopted by the infrastructure manager or where appropriate the railway undertaking or the operator of a service facility concerning:		
336.		(a) the network statement in its provisional and final versions;		
337.		(b) the criteria set out in it;		
338.		(c) the allocation process and its result;		
339.		(d) the charging scheme;		
340.		(e) the level or structure of		

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		infrastructure charges which it is, or may be, required to pay;		
341.		(f) arrangements for access in accordance with Articles 10 to 13;		
342.		(g) access to and charging for services in accordance with Article 13;		
343.		<i>(ga) scheduled and unscheduled infrastructure maintenance work.</i>		<p>EP AM is covered in point (i) of the GA text (pt 345).</p> <ul style="list-style-type: none"> - All types of maintenance works are actually covered in the GA text. - Besides, talking about an "unscheduled maintenance", is a contradiction as maintenance is, by essence, always planned. <p>See <u>Presidency compromise proposal</u> in pt 204 to cover this EP AM, together with this proposal:</p> <p><u>Presidency compromise proposal:</u> "The following sentence is added in Article 53(3): 'The infrastructure manager shall keep a record of all unscheduled maintenance work and make it available, upon request, to the regulatory body.'"</p>
344.			'(h) traffic management;	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
345.			(i) maintenance and renewal planning.	
346.			(j) compliance with the requirements set out in Articles 2(13), 7, 7a, 7b, 7c and 7d.'	
347.		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 (ga) 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.	11. Reference to "(g)" in paragraphs (2) and (9) of Article 56 is replaced by a reference to "(j)".	
348.		3. The regulatory body shall also		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		cooperate closely with the national safety authority within the meaning of Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community [19], and the licensing authority within the meaning of this Directive.		
349.		Member States shall ensure that these authorities jointly develop a framework for information-sharing and cooperation aimed at preventing adverse effects on competition or safety in the railway market. This framework shall include a mechanism for the regulatory body to provide the national safety and licensing authorities with recommendations on issues that may affect competition in the railway market and for the national safety authority to provide the regulatory body and licensing authority with recommendations on issues that may affect safety. Without prejudice to the independence of each authority within the field of their respective competences, the relevant authority shall examine any such recommendation before adopting its decisions. If the relevant authority decides to deviate from these recommendations, it shall give		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		reasons in its decisions.		
350.		4. Member States may decide that the regulatory body is given the task to adopt non-binding opinions on the provisional versions of the business plan referred to in Article 8(3), the contractual agreement and the capacity-enhancement plan to indicate in particular whether these instruments are consistent with the competitive situation in the rail services markets.		
351.		5. The regulatory body shall have the necessary organisational capacity in terms of human and material resources, which shall be proportionate to the importance of the rail sector in the Member State.		
352.		6. The regulatory body shall ensure that charges set by the infrastructure manager comply with Section 2 of Chapter IV and are non-discriminatory. <i>The regulatory body shall ensure that the access charges set by the infrastructure manager, 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</i>		<u>EP AM not acceptable</u> - The regulatory body should not give a prior approval. It should intervene afterwards, as a judge, not as a "legislator". - An ex post control provides enough powers to the regulatory body to redress possible problems. - Infrastructure charging is one of the essential functions of the IM. If the regulatory body is involved in this issue, it will undermine the independence of the IM.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>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, on their postponement or on their cancellation.</i> 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.		- Already covered in Article 56(1)(f) of current Directive. COM confirms that AM is covered in Article 56(1)(f) of the current Directive and suggests adding in Article 56(1)(g) a reference to facilities for the display of travel information.
353.		7. The regulatory body shall, regularly and, in any case, at least every two years, consult representatives of users of the rail freight and passenger transport services, to take into account their views on the rail market.		
354.		8. The regulatory body shall have the power to request relevant information from the infrastructure manager, applicants and any third party involved within the Member State concerned.		

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
355.		Information requested shall be supplied within a reasonable period set by the regulatory body that shall not exceed one month, unless, in exceptional circumstances, the regulatory body agrees to, and authorises, a time-limited extension, which shall not exceed two additional weeks. The regulatory body shall be able to enforce such requests with appropriate penalties, including fines. Information to be supplied to the regulatory body includes all data which the regulatory body requires in the framework of its appeal function and in its function of monitoring the competition in the rail services markets in accordance with paragraph 2. This includes data which are necessary for statistical and market observation purposes.		
356.		9. The regulatory body shall consider any complaints and, as appropriate, shall ask for relevant information and initiate consultations with all relevant parties, within one month from the receipt of the complaint. It shall decide on any complaints, take action to remedy the situation and inform the relevant parties of its reasoned decision within a pre-determined, reasonable time, and, in any case, within six weeks from receipt of all	11. Reference to "(g)" in paragraphs (2) and (9) of Article 56 is replaced by a reference to "(j)".	

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		relevant information. Without prejudice to the powers of the national competition authorities for securing competition in the rail service markets, the regulatory body shall, where appropriate, decide on its own initiative on appropriate measures to correct discrimination against applicants, market distortion and any other undesirable developments in these markets, in particular with reference to points (a) to (ga) of paragraph 1.		
357.		A decision of the regulatory body shall be binding on all parties covered by that decision, and shall not be subject to the control of another administrative instance. The regulatory body shall be able to enforce its decisions with the appropriate penalties, including fines.		
358.		In the event of a complaint 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 its instructions. The infrastructure manager shall comply with the decision of the regulatory body at the		<u>EP AM not acceptable</u>

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>latest one month after receiving notification of that decision.</i>		
359.		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. This provision is without prejudice to the powers of the court hearing the appeal as conferred by constitutional law, where applicable.		
360.		11. Member States shall ensure that decisions taken by the regulatory body are published.		
361.			12. Article 56(12) is amended as follows:	
362.		12. The regulatory body shall have the power to carry out audits or initiate external audits with infrastructure managers, operators of service facilities and, where relevant, railway undertakings, to verify compliance with accounting separation provisions laid down in Article 6. In this respect, the regulatory body shall be entitled to request any relevant information. In particular the regulatory body shall	"In order to verify compliance with accounting separation provisions laid down in Article 6 and provisions on financial transparency laid down in Article 7d, the regulatory body shall have the power to carry out audits or initiate external audits with infrastructure managers, operators of service facilities and, where relevant, railway undertakings. In the case of	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<p>have the power to request infrastructure manager, operators of service facilities and all undertakings or other entities performing or integrating different types of rail transport or infrastructure management as referred to in Article 6(1) and (2) and Article 13 to provide all or part of the accounting information listed in Annex VIII with a sufficient level of detail as deemed necessary and proportionate.</p> <p>Without prejudice to the powers of the national authorities responsible for State aid issues, the regulatory body may also draw conclusions from the accounts concerning State aid issues which it shall report to those authorities.</p>	<p>vertically integrated undertakings, these powers shall extend to all legal entities. [...]</p> <p>The regulatory body shall be entitled to request any relevant information. In particular the regulatory body shall have the power to request infrastructure manager, operators of service facilities and all undertakings or other entities performing or integrating different types of rail transport or infrastructure management as referred to in Article 6(1) and (2) and Article 13 to provide all or part of the accounting information listed in Annex VIII with a sufficient level of detail as deemed necessary and proportionate.</p> <p>Without prejudice to the powers of the national authorities responsible for State aid issues, the regulatory body may also draw conclusions from the accounts concerning State aid issues which it shall report to those authorities.</p> <p>Financial flows referred to in Article 7d(a), loans referred to in Article 7d(c) and (cc), and debts referred to in Article 7d(dd) shall</p>	

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
			<p>be subject to monitoring by the regulatory body.</p> <p>Where a Member State has designated the regulatory body as the independent competent body referred to in Article 7c(3), the regulatory body shall assess the cooperation agreements referred to in that Article."</p>	
363.		13. The Commission shall be empowered to adopt delegated acts in accordance with Article 60 concerning certain amendments to Annex VIII. Thus, Annex VIII may be amended to adapt it to the evolution of accounting and control practices and/or to supplement it with additional elements necessary to verify separation of accounts.		
364.				
365.		<p>Amendment 80</p> <p>Article 1 – point 8f (new)</p> <p>Article 57 – paragraph 9a (new)</p>		
366.	<i>[No changes to Article 57 in the Commission proposal]</i>	<i>8f. In Article 57 the following paragraph is added:</i>		
367.		<i>'9a. Where an applicant considers that a decision of an infrastructure manager is obstructing the development of an international service, it may refer the matter to the network of regulatory bodies for an opinion. The national regulatory</i>		<p><u>EP AM not acceptable</u></p> <p>- Most cases requiring the involvement of regulatory bodies are at national level, the applicants referring to the regulatory body of the MS concerned. Article 57 on the</p>

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<p><i>body concerned shall be informed of that referral at the same time. The network shall, where necessary, seek explanations from the infrastructure manager and, in any case, from the national regulatory body concerned. The network shall adopt and publish its opinion and communicate it to the national regulatory body concerned.</i></p> <p><i>The network of regulatory bodies shall submit an annual activity report to the Commission. The Commission shall report to the European Parliament and Council.</i></p> <p><i>Within one year from the entry into force of this Directive and by no later than 31 December 2019, the Commission shall adopt a legislative proposal establishing a European regulatory body and shall confer on it legal personality together with a supervisory and arbitration function empowering it to deal with cross-border issues and to hear appeals against decisions taken by national regulatory bodies. That new body shall replace the European Network of Regulatory Bodies.';</i></p>		<p>cooperation of regulatory bodies is therefore applied very rarely.</p> <ul style="list-style-type: none"> - When it is applied, the existing cooperation between national regulatory bodies is sufficient and works well. The text of the GA (Article 57(10) - pt 369) further strengthens such cooperation. - The European Regulatory Body should not be the appeal body against decisions taken by the national regulatory bodies. A judicial review of those decisions is foreseen in the current Directive. - Already covered in Article 57(3) of current Directive <p><u>Conclusion</u>: the creation of a European Regulatory Body (to replace a network of regulatory bodies) is therefore not necessary and would only create administrative burden.</p> <p><u>The following text is inserted in Article 57(3a):</u> "Where cases concerning an international service require decisions of two or more regulatory bodies, the regulatory bodies concerned shall cooperate and seek to</p>

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
				align the impact of their decisions.
368.			14. A paragraph 10 is added to Article 57:	
369.			"10. For decisions concerning a bi-national infrastructure, both Member States concerned may at any time after the coming into force of this Directive agree to require coordination between the regulatory bodies concerned in order to align the impact of their decisions."	
370.	9. In Article 63, paragraph 1 is replaced by the following:		9. In Article 63, paragraph 1 is replaced by the following:	
371.		Amendment 81 Article 1 – point 9 Article 63 – paragraph 1 – subparagraph 1		
372.	'1. 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.	1. 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. <i>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 and the views expressed by</i>	'1. 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.	<u>EP AM not acceptable</u> See comments under AM 80 (pt 367)

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>social partners in the relevant Union social dialogue committee.</i>		
373.		Amendment 82 Article 1 – point 9 Article 63 – paragraph 1 – subparagraph 2		
374.	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.'	By the same date, the Commission European Regulatory Body 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 and shall publish recommendations for further policy measures. The Commission shall, if appropriate, propose new legislative measures based on those recommendations.	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.'	<u>EP AM not acceptable</u> See comments under AM 80 (pt 367)
375.		Amendment 83 Article 1 – point 9a (new) Article 63 – paragraph 1– subparagraph 2a (new)		
376.		9a. In Article 63(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 on-board staff and shall, if appropriate, propose new legislative measures on		<u>EP AM not acceptable</u> AM is out of the scope of this Directive. Article 19(1)(h) ERA Regulation (as revised by the JL) provides that the ERA shall issue recommendations to the Commission regarding the training and certification of on-board staff with safety-critical tasks.

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>the certification of such on-board railway staff.';</i>		
377.	Article 2		Article 2	
378.	1. 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.		1. Notwithstanding Article 3(2) , Member States shall adopt and publish, by 36 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.	
379.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.		When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	
380.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.		2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	
381.		Amendment 84 Article 1a (new) Article 2 – paragraph 3		
382.		<i>Article 1a</i> <i>Regulation (EC) 1371/2007 is amended as follows:</i>		<u>EP AM not acceptable</u> The issue of passengers' rights would be better dealt with in the framework of a possible

	Commission proposal COM(2013)0029	EP amendments P7_TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<p><i>Article 2, paragraph 3 is replaced by the following:</i></p> <p>'3. 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 Union.'</p>		Commission revision of the passengers rights Regulation (EC) N°1371/2007.
383.	Article 3		Article 3	
384.		Amendment 85 Article 3 – paragraph 1		
385.	1. This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union.	1. This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union. <i>It shall be made available in consolidated form, together with Directive 2012/34/EU as amended by it, within three months of its publication.</i>	1. This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union.	<p><u>EP AM not acceptable</u></p> <p>Useful in principle but:</p> <ul style="list-style-type: none"> - consolidated version has no legal value - 3 months for COM to prepare it is a short deadline - OPOCE is providing that service
386.		Amendment 86 Article 3 – paragraph 2		
387.	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].	<p>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].</p> <p><i>Until the date of application of point 5 and without prejudice to international passenger services, Member States shall not be required to grant the right of access to railway undertakings and their directly or</i></p>	2. Points 5 to 12 of Article 1 shall apply from 1 January 2020 in time for the working timetable starting on 14 December 2020 .	<p><u>EP AM not acceptable</u></p> <p>An internal reciprocity clause granted <u>at EU level</u> violates the TFEU, as it does not respect the freedom of establishment (Article 49 TFEU), nor the freedom to provide services (Article 56 TFEU). It contradicts the principles of the internal market enshrined in the EU Treaties.</p>

	Commission proposal COM(2013)0029	EP amendments P7 TA(2014)0147	Council general approach ST 12777/15	Remarks / compromise proposal
		<i>indirectly controlled subsidiaries, licensed in a Member State where access rights of a similar nature are not granted.</i>		
388.	<p><i>Article 4</i></p> <p>This Directive is addressed to the Member States.</p> <p>Done at Brussels,</p> <p>For the European Parliament The President</p> <p>For the Council The President</p>			