



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Directorate C - Land
Unit C.4 – Rail Safety and Interoperability
The Head of Unit

Brussels,
MOVE/C.4/KF

ASTOC – Association of Swedish Train
Operation Companies
Sturegatan 11
10204 Stockholm
Sweden

By e-mail:
gustaf.engstrand@tagoperatorerna.se

Subject: Your complaint CHAP (2019) 03052 of 23/10/2019 against Germany

Dear Mr Engstrand,

In reply to your complaint (registered as CHAP(2019)03052) on behalf of ASTOC, about the Federal Republic of Germany and DB Netze AG regarding the alleged infringement of *Commission Implementing Regulation (EU) 2019/774 of 16 May 2019, amending Regulation (EU) No 1304/2014 as regards application of the technical specification for interoperability relating to the subsystem “rolling stock – noise” to the existing freight wagons*, the European Commission informs you as follows:

The so-called “Schienenlärmschutzgesetz” from 20 July 2017, (“*Gesetz zum Verbot des Betriebs lauter Güterwagen und zur Änderung des Allgemeinen Eisenbahngesetzes*”) which entered into force on 21 July 2017, bans the use of “noisy” freight wagons, with some limited exemptions, on the German rail network as of the 2020/2021 timetable (Article 1, paragraph 3(1)). At the same time, the amended TSI Noise (*Commission Implementing Regulation (EU) 2019/774 of 16 May 2019*) sets limitations, with a number of exemptions, for the circulation of “noisy” wagons as of December 2024 on the railway lines most used by freight trains in the European Union. The revised TSI Noise – including its deadlines - is the balanced result of an agreed European compromise, taking into account Member States’ specific circumstances, the production capacity of “silent” brake blocks and the capacity of maintenance facilities to execute the retrofitting of freight wagons with “silent” brake blocks. The two latter elements imply, that in the years to come, additional “silent” freight wagons will be progressively operated on European railways with a significant impact on rail noise well ahead of December 2024, on top of the wagons which already have been retrofitted in the past years and newer wagons which were already “silent” when put into service.

The Commission fully acknowledges the importance of combating rail noise and all relevant legislation is in place: the above-mentioned TSI Noise banning “noisy” wagons as of December 2024 from the busiest rail lines, the Connecting Europe Facility providing co-financing for the retrofitting of freight wagons with “silent” brake technologies and Implementing Regulation (EU) 2015/429 setting a framework for noise-differentiated track

access charges. However, at the same time, the Commission shares your concern, that uncoordinated unilateral action by Member States, such as unilateral bans of certain types of freight wagons, goes against the spirit of the single railway area. Given the intrinsic better performance of rail regarding emissions, safety, energy efficiency and land use, this risks resulting in a less sustainable transport system which would certainly not be acceptable in the light of the Commission's commitments under the Green Deal.

Based on the above, and on the elements you have put forward in your complaint, the European Commission will continue the discussion with Germany, with the aim to seek clarification how Germany intends to comply with European legislation. The Commission expects Germany to refrain from fining or discriminating trains not complying with the German unilateral measure as this would harm cross border rail freight and could lead to modal backshift. The Commission will not hesitate to take measures if necessary.

I would therefore wish to inform you that I intend to close case CHAP(2019)03052. However, should you have any new information that might be relevant for the reassessment of your case, I invite you to contact my services within four weeks of the date of this letter, after which date the case should be closed.

Yours faithfully,

e-signed
Keir Fitch