

State aid for railways to mitigate COVID-19 impact

Brussels, 10 February 2021



Ms Margrethe VESTAGER Executive Vice-President for a Europe fit for the Digital Age and Competition

The European Commission
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1049 Brussels
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Mr Andreas MATTHÄ
CER Chair

Mr Marc WENGLER
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Mr Oliver WOLFF
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Mr Alberto MAZZOLA
CER Executive Director

Dear Executive Vice-President Vestager,

On behalf of the Community of European Railway and Infrastructure companies (CER), which represents 76% of the rail freight business and about 92% of rail passenger operations in Europe, we would like to draw your attention to the substantial losses suffered by the railway companies due to the COVID-19 crisis, and the urgent need of the railway sector to receive adequate support.

Due to the COVID-19 outbreak all railway undertakings – especially those providing commercial passenger transport services – experienced a massive drop in revenues. As of March 2020 CER has been collecting data on a monthly basis from the CER members on the economic impact suffered by them due to the COVID-19 outbreak. The estimated loss of turnover in rail passenger services in EU27 for 2020 appears to be **close to EUR 24.5 billion or -42% compared to 2019**. In December 2020 the estimated average loss reached the record amount of more than EUR 550 million per week or -50% compared to the turnover of December 2019. At the same time, rail passenger operators were unable to mitigate their damages, as despite the very low number of passengers, they did not stop their services in order to continue to ensure mobility and connectivity in the EU, in particular guaranteeing that critical workers could continue to rely on public transport.

Rail freight operators have also been hit by significant losses and increased costs. Based on the data collected by CER, the estimated loss of turnover in rail freight services in EU27 for 2020 is **close to EUR 1.9 billion or -12% compared to 2019**.

It is important to note that rail fulfils a critical socio-economic function of providing sustainable, environmentally friendly transportation. In order for the EU to reach its climate neutrality goal in 2050, the modal shift from more polluting transport modes to rail has to be urgently accelerated, which should be reflected in the European Commission's approach to State aid. Despite the critical importance of rail transport for society, so far the losses suffered by the railway sector due to COVID-19 have only been compensated by public authorities to a small extent. By contrast, the Commission has approved numerous State aid schemes that support national airlines. This multi-billion euro support provided to airlines could lead to unbalanced development of transport modes in the post-COVID-19 period. Considering that the average

external costs of passenger rail transport are three times lower than for aviation, it is crucial to redress the current imbalance in support and more equally assist less polluting, more environmentally friendly transport modes like rail, which is in line with the EU Sustainable and Smart Mobility Strategy.

CER believes there is an urgent need for the European Commission to send a strong and clear signal to Member States that the rail transport sector needs to be adequately supported. Targeted support to railways to mitigate the negative impact of COVID-19 is indispensable for the sector's recovery and future growth. It is presently even more fitting for the Commission to actively promote adequate support to the rail sector, since 2021 is the European Year of Rail.

As outlined above, targeted State support to railways is urgently needed and is a pre-condition for a higher modal share of railways in the future. Therefore, CER believes that the Commission should encourage and make it easier for Member States to provide the necessary aid to railway companies. CER sees different options under EU State aid law that would be in line not only with the Commission's competition policy, but also the transport policy and the goals of the Green Deal to support the railway sector.

- The Commission could authorize such measures more broadly based on Article 107(2)(b) TFEU on aid to make good the damage caused by natural disasters or exceptional occurrences. So far, measures to support railway companies approved based on Article 107(2)(b) TFEU have been fragmented and limited with regard to the number as well as the compensation period. Wider use by Member States of the possibilities provided by Article 107(2)(b) TFEU to support rail transport operators should be supported and promoted by the Commission. In our view, considering the vital role of railways in the green transition, and in order to provide a strong signal to Member States, a **broader interpretation of Article 107(2)(b) TFEU for rail transport – in terms of compensation period, causal direct link and damage covered – could be supported by the Commission.** In particular, aid on the basis of Article 107 (2) (b) TFEU could cover not only damages incurred during lockdown periods, but also damages caused by other restrictive measures leading to a significant traffic and revenues reduction. Such approach would be based on the specifics of the particularly hard hit railway sector, hence not creating precedents setting the wrong incentives.
- The Commission **could adapt specific provisions of the Temporary Framework for State aid in order to reflect the specificities of the railway sector.** The sector generally welcomes the amendments that have been adapted so far, as well as the continuous prolongation and expansion, of the Temporary Framework for State Aid, which explicitly mentions transport as one of the most affected sectors. In particular, the recent increase of aid ceilings set out in the Temporary Framework is strongly supported. However, while it undoubtedly constitutes a welcome development, it is important to underline that even following its latest amendment on 28 January 2021, the Temporary Framework in many cases still cannot constitute the right basis for adequate support required by the rail sector. In particular, although the fifth amendment raises the maximum amount of companies' fixed costs to which Member States can contribute from EUR 3 million to EUR 10 million per company, it is still **inadequate for railways**, being one of the most capital-intensive sectors with extremely high fixed costs. Furthermore, also the other provisions of the Temporary Framework are not suitable for railways.
- Alternatively, we would like to encourage the Commission to consider applying **Article 93 TFEU** to State aid to the railway sector to cover COVID-19-related losses. Article 93 TFEU allows aid for the "coordination of transport". The respective Railway State aid Guidelines already provide possibilities for aid to rail transport, however they

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are unfit for the challenges of the COVID-crisis. In our view, considering the particular impact of the current crisis on the rail sector, sector's key role in environmental policy and in decarbonisation of transport, aid for railways to mitigate COVID-19 impact meets the needs of coordination of transport outlined in Article 93 TFEU (provided that non-discriminatory application and proportionality is ensured, e.g. by means of clear limitation to actual damage).

It is furthermore important to note that, according to forecasts, it will take time for the revenues of the railway transport operators to come back to the pre-COVID-19 levels, as damages are currently still increasing. At least throughout the first half of 2021, travel restrictions, closure of borders, supply chain disruptions, widespread working from home arrangements as well as various social distancing measures and other containment measures will continue to be in place and will result in further significant losses for the sector.

In this context, we would be honored to present the situation to you in a virtual meeting and to hear your views on these topics, namely on how to proceed in defining the way forward. We are in contact with the relevant DG Competition offices; however we believe that political guidance is required to properly address the situation. We hope that you can accept our invitation and we will contact your Cabinet in this regard.

Looking forward to hearing from you,

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Andreas'.

Mr Andreas MATTHÄ
CER Chair

A handwritten signature in blue ink, appearing to read 'Alberto'.

Mr Alberto MAZZOLA
CER Executive Director

A handwritten signature in blue ink, appearing to read 'Marc'.

Mr Marc WENGLER
CER Vice-Chair

A handwritten signature in blue ink, appearing to read 'Robert'.

Mr Robert HOMOLYA
CER Vice-Chair

A handwritten signature in blue ink, appearing to read 'Oliver'.

Mr Oliver WOLFF
CER Vice-Chair