

5.3. Article 6

5.3.1. The Committee, whilst agreeing with the Commission that simplification is needed, queries the way vehicles are differentiated:

— Would not a more detailed differentiation have brought us closer to the goal of linking the charges

more effectively to the real costs of infrastructure use and external costs?

— Is there any justification other than that of simplicity for the linear 10 % differentiation between non-Euro vehicles, Euro I vehicles and Euro II vehicles?

Brussels, 23 April 1997.

The President
of the Economic and Social Committee
Tom JENKINS

Opinion of the Economic and Social Committee on the 'White Paper: a strategy for revitalizing the Community's railways'

(97/C 206/06)

On 2 August 1996 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned white paper.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 9 April 1997. The rapporteur was Mr von der Decken.

At its 345th plenary session (meeting of 23 April 1997) the Committee adopted the following opinion by 115 votes to four with six abstentions.

1. The Commission document

The Commission sees the white paper as a further policy tool in its fight to relieve congestion, limit environmental pollution and encourage the better integration of the entire European transport system. Its main objective, however, is to halt the decline of rail freight and rail passenger transport by proposing a new strategy that implies a wholesale revolution of the present organizational structures and should lead to the creation of a 'new kind of railway' which is first and foremost a business geared towards satisfying customer needs. In particular, the document proposes the creation of a number of trans-European rail 'freeways' for freight open to all operators. At the same time, the Commission hopes to encourage use of rail as a safe, environmentally responsible and commercially efficient alternative or complement to the roads.

In drafting the white paper the Commission has drawn on the ideas of an advisory group personally appointed by Commissioner Kinnock and comprising representatives of railway managers, trade unions, infrastructure operators and users. Their report 'The future of rail transport in Europe' was published in June 1996.

As a first stage this new strategy proposes a four-step plan towards the revitalization of the Union's railways by:

1.1. *Clarifying the division of financial responsibility between the state and the railways*

— The Commission will report at regular intervals on the progress made by the Member States in reducing debt and improving finances, beginning in 1997;

— in the case of debts accumulated since 1993 and of current losses, the Commission will only authorize

state aids if they are in accordance with the Treaty and it will develop specific rules and guidelines by 1998.

1.2. *Introducing market forces into rail*

This is a key element of the proposed strategy to revitalize rail transport. The Commission white paper proposes:

- to speed up, as first suggested in July 1995⁽¹⁾, modification of the existing EU legislation [Directive 91/440/EC⁽²⁾] so as to extend access rights to railway infrastructure for freight and for international passenger services;
- to modify existing EU legislation to require greater separation of infrastructure management and transport operations into distinct business units, with separate management and balance-sheets;
- to create a number of trans-European rail 'freeways' for freight. The Member States along a given route would, acting together, open access to the infrastructure for all rail freight services;
- to create single offices ('one-stop shops') designed to handle demands for train paths as quickly as possible.

1.3. *Assuring the provision of public service through the award of public service contracts*

Two major improvements are proposed:

- a) moving from a mixed system of obligations imposed by the state and public service contracts, to the application of contracts negotiated between the state and the railway operator covering all types of public services, including urban, suburban and regional services;
- b) market forces should be introduced into the operation of services. This would improve domestic passenger transport just as much as international passenger or freight services.

1.4. *Integrating national rail systems*

The Commission is already working on an ambitious policy to tie national transport infrastructure together into trans-European networks and to provide a framework for the coordination of hitherto separate research activities in the Member States through the Community-funded R&D programme 'Trains and railways systems of the future'. A solution is needed urgently to the problem of long waiting times at the Community's internal and external borders.

1.5. *Social aspects*

Finally, the European Commission is aware that restructuring and competition carry social implications. But it is clear that if the railways do not become competitive, they will lose markets and have to reduce employment even more. Personnel policies, including substantial programmes to retrain redundant workers, backed by adequate resources, are needed. Although this is primarily the responsibility of Member States, contributions from the European Social Fund must be carefully considered.

2. *General comments*

2.1. The ESC welcomes the Commission's plan to develop a coherent strategy for making the railways more efficient and economically viable. In view of the extremely difficult situation, there is an urgent need for action.

2.2. In its white paper the Commission asserts that the railways have reached a nadir and are again losing market share, especially in the freight sector.

This fact cannot be denied, but it is inadequately explained by the data on which the analysis is based. The white paper refers to existing instruments and is based on factors which are still not or not adequately understood.

2.3. In particular, the Committee considers it absolutely essential to sift through the directives and regulations and study their transposition into national laws. The actual implementation and achievements of these provisions could thus be analyzed so that Member States can learn from each other's experience and future fields of application can be examined, with particular attention to whether implementation in the individual Member States is converging or drawing further apart. Neither

⁽¹⁾ Communication from the Commission on the development of the Community railways, COM(95) 337 final (OJ No C 321, 1. 12. 1995, p. 10); OJ No C 153, 28. 5. 1996, p. 16.

⁽²⁾ OJ No L 237, 24. 8. 1991, p. 25; OJ No C 225, 10. 9. 1990, p. 27.

the Council nor the Commission can escape their responsibilities in this respect.

2.4. In the various chapters of the white paper the Commission proposes how it intends to tackle the problems. To a large extent these proposals are based on intentions rather than sound research.

Relevant data broken down by goods and passenger transport and indicating the market shares of both would certainly have been more helpful than general statements.

2.5. By this approach the Commission confirms that in fact insufficient information is available for the publication of a white paper. It would therefore have been more correct to issue a green paper or a communication. Since action is needed so urgently however, the Committee hopes that the necessary analyses will now be carried out as quickly and thoroughly as possible — and going beyond the work programme set out in the white paper — and that this will then form the basis for a sound strategy.

2.6. *User interests*

2.6.1. In describing the strategic goals of the 'new railways' the Commission takes insufficient account of one important aspect, namely the needs and interests of users. Much is said about economic viability, efficiency, costs, competitiveness, old debts, management independence, etc. In the final analysis, however, the railways are a service and must meet the needs and wishes of users [see ESC opinion on the Citizens' Network⁽¹⁾]. This applies particularly to the transport of people and more specifically public passenger transport. A more friendly and less bureaucratic customer service is needed. Rail freight transport, too, could be made considerably more attractive.

2.6.2. It is precisely in the area of user (consumer) services that the railways have, because of the traditional managerial ethos of state-owned companies, a lot of catching-up to do. It is not only fares that are at issue here, but also comfort, punctuality, user-friendly timetables, information on delays and real customer care. A thorough review of the opportunities in this area would certainly be very interesting.

3. *Specific comments*

3.1. *Old debts, improving the financial position and infrastructure*

3.1.1. A key strategic element in the white paper's push for liberalization of the railways is independent commercial management.

3.1.2. An essential precondition for this and hence for compliance with Directive 91/440/EEC on the development of the Community's railways is the elimination of old debts.

Progress on this has, however, been very incomplete and has varied from one Member State to another.

For some Member States it would probably compound the problem of public debt and meeting the convergence criteria.

3.1.3. Nor is the elimination of old debts sufficient on its own; apart from the showpiece high-speed networks, national budgetary problems are cited as the reason in many cases for the lack of any real improvement in conventional infrastructure and rolling-stock. There is a massive amount of catching-up to do here. The railways are still a long way from making a fresh start by balancing their books. This is, however, one of the preconditions if commercial management is to be achieved.

3.1.4. Just how difficult the investment situation is, is shown by the fact that, despite the European Council decision in Essen giving the TENs projects priority, virtually none of these trans-border projects has so far been secured financially.

3.1.5. Although Article 9 of Directive 91/440/EEC stipulates compliance with Treaty Articles 77, 92 and 93, it is not clear what legal base the Commission wishes to cite here for the application of the Community guidelines on state aid for rescuing and restructuring firms in difficulty⁽²⁾. The Commission's intention here is not consistent with the legal base; at the very least it reveals some uncertainty on the Commission's part.

3.1.6. The Committee would further point out that the rules on old debts are to apply to a substantial part of the social costs caused by the redeployment and shedding of staff in the wake of restructuring and modernization.

3.2. *Introduction of market forces*

3.2.1. In its opinion on Directive 91/440/EEC the Committee warned against embarking on the implementation phase too quickly and argued that the Member States and existing national railway companies should be allowed to put the proposed procedure into practice.

⁽¹⁾ OJ No C 212, 22. 7. 1996, p. 77.

⁽²⁾ OJ No C 368, 23. 12. 1994, p. 12.

The timing of rail liberalization must take full account of the restructuring process and avoid the risk of distorting competition. The introduction of free competition before restructuring is completed could impair the potential growth of the rail market.

3.2.2. It is not clear from the analysis of the introduction of market forces which market sectors could play a role in helping rail transport to develop in a more positive direction. Freight shipments over distances of more than 150 km will hardly reverse the trend on their own. Goods with a high added value are not necessarily to be found on the railways. The problem is that industry is constantly trying to reduce warehouse times. Trans-European transport operations could be improved through the use of telematics systems and better scheduling to reduce transport times, and this could improve the order-book situation.

3.2.3. Ultimately it is the shipper who decides on the mode of transport to be used. Here it is not only the freight price which is the determining factor, as the green paper on efficient pricing in transport states. Many other factors play an important role, too. Delivery times and punctuality also have to be taken into account.

3.2.4. Unfortunately the Committee does not have the necessary data for an exact assessment of the market situation. Studies, such as that carried out by Prognos AG, Basle on behalf of the FAT and German Transport Forum, would certainly provide new information. (FAT publications No 125, February 1996). Tables showing debt and tonne-km are not sufficient on their own to reveal market niches.

3.2.5. Distortions of competition between modes are rooted not only in infrastructure costs but in many other factors too. This argument is endorsed by the common position (EC) No 61/96 adopted by the Council on 25 October 1996⁽¹⁾. The second and third paragraphs of the proposal to amend Regulation (EEC) No 1107/70 on the granting of aids for transport by rail, road and inland waterway state:

- '(2) Whereas the growing requirement for mobility is placing ever increasing demands and pressures on people and the environment; whereas, to take account of the present highly uneven spread of costs and pressures between the different modes of transport, the possibility must be created of support for environment-friendly forms of transport;
- (3) Whereas the current overall transport policy has not yet succeeded in creating the conditions for healthy competition between the various modes of transport, and whereas no financial equilibrium has yet been achieved within the railway companies.'

3.2.6. As regards the distortions of intermodal competition caused by external costs which have not yet been internalized, the Commission white paper refers to the Green Paper 'Towards fair and efficient pricing in transport — Policy options for internalizing the external costs of transport in the European Union'.

However, the Committee pointed out in its relevant opinion⁽²⁾ out that this green paper was concerned almost exclusively with road transport. Rail transport is mentioned, but there is no detailed analysis of the external costs which may have to be allocated and this is not provided for in the Commission's programme either. This must be done as a matter of urgency.

3.2.7. The Commission's proposed amendments to Community legislation with a view to separating management and bookkeeping for infrastructure and operations should be based on thorough analyses and take account of the experience acquired in the application of the existing legal instruments in this area.

3.2.8. In general the possibility of boosting rail transport through competition cannot be explored meaningfully without looking at the positive experiences of some Member States with distinct business units.

3.2.9. Broadly speaking the Committee supports the creation of freeways. Various technical working groups are still discussing the practical arrangements for setting up European rail freight freeways.

The objective of tapping the full potential of the rail freight system can, however, only be seen as an integral part of an intermodal transport chain. It must be possible to shift goods from and to rail customers as efficiently as possible. Infrastructure charges and timetable priorities are further points which need to be discussed in this context.

3.3. Rail transport in the public interest

3.3.1. As the Committee has already emphasized in its opinion on the Citizen's Network, it is of prime importance to define as clearly as possible the scope and objectives of public services in the transport sector. These are services which are not/cannot be provided or adequately provided by purely commercial transport operators, but which are necessary for lasting, high-quality mobility and as a contribution to sustained development, social cohesion and regional balance.

⁽¹⁾ OJ No C 372, 9. 12. 1996, p. 1.

⁽²⁾ OJ No C 56, 24. 2. 1997, p. 31.

3.3.2. Since for historical reasons the scope of public interest services has evolved very differently in the Member States and regional circumstances also have to be taken into consideration, it is for the Member States to apply the subsidiarity principle and define their scope in greater detail. What is important, however, is that their scope be defined unambiguously and be transparent.

3.3.3. Although public services in rail transport mainly involve passenger transport, some freight sectors could, if appropriate, be counted as services in the general interest.

3.3.4. Services in the public interest should be carried out by independent public or private companies on the basis of well-defined contracts in which the services in particular are clearly described. Above all, however, the uneconomic services should be specified and reimbursed from the public purse. Transparency is especially important here.

3.4. *Integration of national railway systems*

3.4.1. Interoperability⁽¹⁾ and infrastructure

3.4.1.1. The objective of EU-level harmonization of technical standards for rolling-stock and infrastructure is bound to benefit the railways. In assessing the longstanding technical monopoly that individual railway companies have had over the ordering and evaluation of equipment, the Commission forgets however that these companies have sunk considerable sums of money into research and testing. These funds would now have to be borne by the industry itself.

3.4.1.2. This has certainly not all happened in a vacuum. The standards have been underpinned internationally by IUR agreements and governments have safeguarded markets and employment for their national industries.

3.4.2. The Committee welcomes the plan to link national transport infrastructure together in trans-European networks and to extend the European railway system to the conventional routes. However, this raises the question of whether these networks are an integral part of the planned freight network or whether a new approach is intended here. The Committee cannot at this point discern a plan or where the financing is to come from. Infrastructure and its cost represent a huge burden. Who will bear it: the Member States or the EU as a whole?

3.5. *Safety and noise reduction*

3.5.1. The Commission cites Commissioner Kinnock's advisory group to the effect that there is not always a proper balance between cost and benefits where rail safety is concerned. This would seem to lead to the equation: reduced costs equal reduced safety. Since expenditure on safety is also an element of external costs and features prominently in railways' accounts this is reflected in greater customer safety. In the absence of precise figures for the true costs of safety expenditure by their main rival, road, it is difficult for the Committee to take a stand. The costs should include the investment and maintenance costs incurred by both national and local authorities in respect of signalling technology, surveillance systems, parking facilities, policing, etc. This would certainly give a quite different picture.

Whenever economic arguments are considered, it should be borne in mind that the overall safety record of the railways has been built up over decades and cannot be jeopardized on the basis of a simple equation.

3.5.2. As regards new construction or the extension of existing infrastructure, there are Community instruments applicable to all transport modes which lay down conditions as to the consultations that must be held on the general environmental damage that will be caused. The question therefore remains as to whether the railways are to be subject to even stricter conditions than their rivals (e.g. as regards noise reduction). Who will bear the extra costs?

3.6. *Social aspects*

3.6.1. Some serious thinking is needed before considering using the European Social Fund. A systematic cut in the workforce cannot be accepted so readily. The shedding of jobs means exacerbating an already bad labour market situation, and in particular fewer staff to provide the planned or expected services. Bringing the various sectors right up to date and applying new technologies are viewed more favourably by the workforce.

3.6.2. Such measures will make the railways more efficient, improve their operation and thus safeguard jobs. Here too, however, everything depends on whether the Member States are willing to invest. The staffing problem, too, is a major part of the legacy from the past and hence part of the old debts of the railway companies, i.e. of the Member States.

3.6.3. In their respective deliberations the Commission and the Council should not neglect discussions

(1) OJ No C 397, 31. 12. 1994, p. 8.

— in a spirit of partnership — with the workforce. Negotiations with the national trade unions, including in the European joint committee, spring to mind.

4. Timetable and conclusions

4.1. The European Community has been trying since 1968 to introduce common guidelines for the railways. This has led to a number of recommendations, decisions, directives and regulations being issued. But these instruments — some legally binding, some not — have not achieved the desired end. Without seeing the reports that the Commission is to send to the Council on the implementation of the various legal instruments in the Member States, it is very difficult for the Committee to follow clearly the concrete impact of these Community principles on current railway policy.

As already stressed in point 2.3, the analysis referred to there must be given priority in the timetable of measures.

4.2. The Commission studies, reports and communications planned for 1997 and 1998 on the various railway-related measures are to be welcomed. The Committee can only support such initiatives. It regrets, however, that these were not started a few years ago so that their findings would be available today; pending specific proposals, however, they will provide factual information and an appropriate foundation for a strategy.

4.3. The Committee would however urge the Commission not to be too precipitate with amendments to legal instruments since the transposition of the various directives is planned for mid-1997 and even the end of 1999.

4.4. The implementation of directives by the Member States is a precondition for access to railway infrastructure and the interoperability of the high speed train network. A further interval is needed between the implementation of the instruments in the Member States and the necessary evaluation of the experience acquired.

4.5. Before the Community legislation is amended, the Commission must ensure that the facts are thoroughly studied and assessed. Only on the basis of such findings can amendments be undertaken.

4.6. The Committee considers that the legal basis still needs to be clarified in order to apply the Commission's guidelines for rescuing and restructuring firms in difficulty to the restructuring of the railways.

4.7. As far as the other measures planned by the Commission are concerned, the comments in the opinion are sufficiently clear.

4.8. Since the Committee regards action as particularly urgent, it would not recommend that the white paper be reworked, however necessary this may be; it would, however, expect the comments made in this opinion on the various projects to be given urgent consideration when the white paper and 'strategy' are implemented.

Brussels, 23 April 1997.

*The President
of the Economic and Social Committee*

Tom JENKINS
