

# Questionnaire for the public consultation on the Revision of the State aid Railway Guidelines (Railway Guidelines)

Fields marked with \* are mandatory.

## Introduction

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### Target audience

The main stakeholders identified include local and national aid granting authorities, national and EU regulatory bodies, railway undertakings, railway infrastructure managers, terminal owners and operators, multimodal transport operators, organisers of intermodal freight transport, freight forwarders, logistics operators, road hauliers, shippers, rolling stock leasing companies, inland waterway and maritime freight transport operators and industry associations representing the different categories at EU and national level. The consultation can also be relevant to sectorial think tanks, platforms and networks, environmental NGOs, sectorial manufacturers, researchers and academics, consumers and consumers associations and citizens.

### Why we are consulting

The aim of the consultation is to seek information and feedback from the most relevant stakeholders and from the wider public in relation to the assessment of the revision of the state aid rules applicable to railway undertakings, as set out in the Communication from the Commission — [Community guidelines on State aid for railway undertakings](#).

The revision follows up on the results of the [Fitness Check](#), performed by the Commission in 2019/2020 and is meant to keep up with the main regulatory and market developments in the rail sector but also to allow the rail sector embrace the green and digital transitions.

The information gathered in the public consultation will underpin the assessment of the different policy options to design the new rules and meet the ambitious targets to shift European traffic to more sustainable and less polluting transport solutions, whilst protecting the level playing field within the European Union.

## About you

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### \* Language of my contribution

- Bulgarian
- Croatian

- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

\* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

\* First name

Head of

\* Surname

STATE AID UNIT -EZ

\* Email (this won't be published)

wjzstaatssteun@minez.nl

\* Scope

- International
- Local
- National
- Regional

\* Level of governance

- Parliament
- Authority
- Agency

\* Organisation name

*255 character(s) maximum*

The Netherlands- Interdepartementaal Staatssteun Overleg (hereafter: ISO)'. The ISO is a central State aid coordination body composed of all Dutch ministries and representation of the regional and local authorities.

\* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

*255 character(s) maximum*

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

## \* Country of origin

Please add your country of origin, or that of your organisation.

- Afghanistan
- Åland Islands
- Albania
- Algeria
- American Samoa
- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Djibouti
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Libya
- Liechtenstein
- Lithuania
- Luxembourg
- Macau
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Saint Martin
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname

- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom

- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena  
Ascension and  
Tristan da Cunha
- Saint Kitts and  
Nevis
- Saint Lucia
- United States
- United States  
Minor Outlying  
Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and  
Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

### \* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

**Anonymous**

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

**Public**

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

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## Support to modal shift towards less polluting and more sustainable transport modes

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1. The Railway Guidelines\* allow for State aid to support those modes of transport which give rise to the lowest external costs. Rail transport, but also inland waterway transport and multimodal transport, represent less polluting and more sustainable transport solutions than road-only because they normally entail lower external costs.\*\* The Railway Guidelines allow for State aid to reduce the cost of the corresponding transport operations, in the form of aid for rail infrastructure use and aid for reducing external costs.

In order to better contribute to the achievement of the European ambitious targets on shifting more activity towards more sustainable transport modes\*\*\* and to strengthen competitiveness of the market, do you think that such operational aid should be made subject to the following conditions?

\*Section 6, points 103 and 107 of the [Railway Guidelines](#).

\*\*External costs are costs generated by transport users and not borne by them but by the society as a whole. They are linked to negative externalities entailed by the transport sector, such as accidents, air pollution, climate change, noise, congestion, well-to-tank emissions, habitat damage and other external cost categories (including soil and water pollution).

\*\*\*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Sustainable and Smart Mobility Strategy – putting European transport on track for the future, [COM/2020/789 final](#).

\* Eligibility for support should be based on showing reduction of external costs by a certain percentage compared to road only alternative

Yes

No

\* Please justify:

*250 character(s) maximum*

Aid for reducing external costs should be possible where it can be substantiated by a percentage of reduction.

\* The aid should be granted only insofar as and to the extent it is proved, for example by way of a business plan, that the underlying transport services / operations are not cost-covering and/or do not ensure competitiveness as compared to the road-only alternative

- Yes  
 No

\* Please justify:

*250 character(s) maximum*

Given the EU Green Deals objectives the justification for proof of reduction of external cost should be sufficient condition to comply with EU State aid rules regardless the level of profitability of the service.

\* The aid should be capped to a certain percentage of the eligible costs, in order to incentivise the beneficiary to provide a minimum financial contribution either through its own resources or by external financing

- Yes  
 No

\* Please justify:

*250 character(s) maximum*

The allowed aid should be limited to maximum 100% savings in external costs so to have flexibility to ensure climate effective aid schemes.

\* The aid is given only in the form of a scheme based on transparent and non-discriminatory criteria

- Yes  
 No

\* Please justify:

*250 character(s) maximum*

Transparency and non-discrimination of aid schemes are essential to ensure a level playing field in the rail market.



\* The aid is given as a rule in the form of a scheme based on transparent and non-discriminatory criteria. Individual aid should not be authorised except in very exceptional circumstances where the need for State intervention is characterised by a clear market failure, taking into account the exceptional circumstances, the magnitude of the underlying transport operations and the limited competition distortions

- Yes
- No

\* Please justify:

*250 character(s) maximum*

Individual aid exception only in cases of market failure.

\* 2. In relation to State aid to reduce external costs, the Railway Guidelines provide that the maximum aid amount must be determined in relation to the avoided external costs and to the total cost of rail transport.\* Do you think that such methodology is suitable to provide sufficient aid to encourage modal shift? (Single choice question)

\*Section 6, points 103 and 107 of the Railway Guidelines.

- Yes
- No, the maximum aid amount should be determined only in relation to the avoided external costs
- No, the maximum aid amount should be determined only in relation to the total cost of rail transport
- No, the maximum aid amount should be determined in relation to items other than avoided external costs and total cost of rail transport (please specify)
- I don't know

\* Please justify:

*250 character(s) maximum*

This ensures most effective contribution to the EU Green Deal objectives where EU Member States have flexibility to determine the appropriate aid schemes.

\* 3. The Railway Guidelines provide that State aid for rail infrastructure use and State aid for reducing external costs is assumed to be necessary and proportionate, if the aid amount does not exceed 30% of the total cost of rail transport.\* Do you find that adequate? (Single choice question)

\*Section 6.3.2. of the Railway Guidelines.

- Yes
- No, 30% is too low
- No, 30% is too high
- I don't know

\* Please justify:

*250 character(s) maximum*

Given the EU Green Deal objectives flexibility is needed to create effective modal shift schemes. E.g. 50% seems more appropriate. However competition between different maritime ports serving rail should not be distorted.

\* 4. The Railway Guidelines provide that State aid for reducing external costs and State aid for interoperability\* is assumed to be necessary and proportionate, if the aid amount does not exceed 50% of the eligible costs.\*\* Do you find that adequate? (Single choice question)

\*Interoperability of rail is defined as the capability to operate on any stretch of the rail network without any difference. The objective of interoperability aid as defined in the State aid Railway Guidelines is to support investments in measures which can help to remove the technical barriers in the European rail services market and to achieve greater safety.

\*\*Section 6.3.2. of the Railway Guidelines

- Yes
- No, 50% is too low
- No, 50% is too high
- I don't know

\* Please justify:

*250 character(s) maximum*

Flexibility is needed to ensure effective and rapid implementation of interoperability (aid for ERTMS on board units for (TEN-T proposed) migration by 2040):100% aid level. Other issue is aid for reduction noise at source (wagons): 100% aid level.

## Infrastructure for rail and intermodal transport

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\* 5. The Railway Guidelines do not provide State aid rules on the public financing of infrastructure.\* Do you think that specific guidance is needed on State aid to rail service facilities, i.e. to facilities, including a site, building or equipment, which are

meant for the performance of one or more services to rail and intermodal transport operators, such as freight transshipment terminals, marshalling yards, maintenance facilities or fuelling stations?

\*Section 2 of the Railway Guidelines, point 23.

- Yes
- No
- I don't know

\* Please justify:

*250 character(s) maximum*

Allowed aid for e.g. intermodal equipments / infrastructure must be clarified in the Guidelines. Present situation is fragmented in EU Member States and may lead to distortion of level playing field between ports.

\* 5.1. If the answer to Q 5 is yes, do you think that State aid for the construction or upgrade of rail service facilities should be allowed up to 100% of the funding gap?

- Yes
- No, a minimum own contribution (free of State aid) by the owner of the infrastructure that receives the aid should always be required
- I don't know

\* Please justify:

*250 character(s) maximum*

/

\* 5.2. If the answer to Q5 is yes, do you think that State aid for the construction of rail service facilities should be made subject to conditions? (Single choice question)

- Yes
- No
- I don't know

\* Please justify:

*250 character(s) maximum*

Yes, under the condition of non-discriminatory access to such services is ensured contractually in addition to 2012/34/EU, Article 13.

5.2.1. If the answer to Q 2 is yes, do you agree on the following conditions? (Tick the box/es)

\*

Open and non-discriminatory access to the publicly subsidised facility should be always granted to all interested operators

- Yes
- No

\* Please justify:

*250 character(s) maximum*

/

\* The publicly subsidised facility should not have any other facilities within the same catchment area, depending on the density of facilities, their operational capacity and suitability of the services they provide\*

\*In case of transshipment terminals this should take into account factors such as available transshipment equipment, type of handled loading units and available rail connections.

- Yes
- No

\* Please justify:

*250 character(s) maximum*

/

\* The owner of the facility should not also use the infrastructure as a transport operator because this could lead to a monopolistic position

- Yes
- No
- Other

\* 6. Do you think that State aid for inland terminals should be subject to different conditions than terminals at maritime and inland ports? (Single choice question)

- Yes
- No
- I don't know

\* Please justify:

*250 character(s) maximum*

Aid conditions for inland rail terminals infrastructure should be more favourable than maritime ports because these inland rail terminals can have a direct contribution to modal shift from road to rail and thereby the greening of transport.

## Access to rolling stock

- \* 7. The Railway Guidelines\* provide rules for State aid for the purchase and renewal of rolling stock. Such aid is meant to incentivise railway undertakings to invest in the modernisation of their rolling stock to keep rail transport competitive with other modes of transport which cause more pollution or entail higher external costs, to limit the impact of rail transport on the environment, particularly by reducing the noise pollution it causes, to improve its safety and interoperability. Do you think that railway undertakings still face or may face difficulties in having access to passenger rolling stock? (Single choice question)

\*Section 3 of the Railway Guidelines.

- Yes  
 No

- \* Please justify:

*250 character(s) maximum*

For particular non incumbent railway undertakings investments in passenger rolling stock without a PSO contract is very difficult.

- \* 7.1. If the answer to question 7 is yes, what type of rolling stock is it most difficult to access? (Multiple choice question)

- Locomotives  
 Coaches  
 Electric Multiple Units (non-high speed)\*  
 High speed rolling stock  
 Other

\*An electric multiple unit or EMU is a multiple-unit train consisting of self-propelled carriages using electricity as the motive power. An EMU requires no separate locomotive, as electric traction motors are incorporated within one or a number of the carriages.

- 7.2. If the answer to question 7 is yes, what are the main difficulties? (Multiple choice question - please degree 1 to 5)

	1	2	3	4	5
* Price levels, including leasing costs	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
* Access to finance (loans and guarantees)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
* Access to second hand rolling stock	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

* Technical interoperability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lack of suitable offer of the railway supply industry	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
* Lack of suitable offer of rolling stock leasing companies	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other (please specify)

*100 character(s) maximum*

Technical interoperability is a difficulty. No opinion on the other difficulties.

\* 7.3. If the answer to question 7 is yes, are you in favour of State aid to railway undertakings for the purchase or lease of passenger rolling stock? (Single choice question)

- Yes
- No
- I don't know

\* Please justify:

*250 character(s) maximum*

Yes. Under the condition of transparency and non-discrimination.

\* 7.3.1 If the answer to Q 7.3 is yes, what would be the most appropriate aid instrument? (Multiple choice question)

- Guarantees
- Loans
- Equity or quasi equity
- Tax advantage or tax exemption
- Grants
- Other

\* Other (please specify)

*100 character(s) maximum*

No opinion

\* 8. Do you think that railway undertakings face difficulties in having access to freight rolling stock? (Single choice question)

- Yes
-

No

I don't know

\* Please justify:

*250 character(s) maximum*

Yes, as regards ERTMS on board units (see also remarks under interoperability).

8.1. If the answer to question 8 is yes, what are the main difficulties? (Tick the box /es and degree 1 to 5)

	1	2	3	4	5
* Price levels, including leasing costs	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Access to finance (loans and guarantees)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Access to second hand rolling stock	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Technical interoperability	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Lack of suitable offer of the railway supply industry	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Lack of suitable offer of RS leasing companies	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Other (please specify in the box below)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* If you selected other, please specify

*100 character(s) maximum*

Technical interoperability is a difficulty. No opinion on the other difficulties.

\* 8.2. If the answer to see question 8 is yes, would you be in favour of State aid to railway undertakings for the purchase or lease of freight rolling stock? (Single choice question)

Yes

No

I don't know

\* 9. The Railway Guidelines provide for rules on State aid for the purchase or renewal of rolling stock by railway undertakings. Do you think that there can be market failures that would justify State aid measures to subsidise the purchase of rolling-stock by leasing companies, or by any other market actors providing for the leasing of rolling stock? (Single choice question)

Yes, for both passenger and freight rolling stock

Yes, but only as regards passenger rolling stock

- Yes, but only as regards freight rolling stock
- No, never
- I don't know

\* Please justify:

*250 character(s) maximum*

Critical is the conditions of non discrimination and transparency.

\* 9.1. If the answer to Q9 is yes, which of the following categories do you consider mostly concerned by market failures, which should be subsidised with State aid?  
(Multiple choice questions)

- Wagons
- Locomotives
- Electric Multiple Units
- Other

\* 9.2. If the answer to Q9 is yes, what would be the most appropriate instrument?  
(Multiple choice question)

- Guarantees
- Loans
- Equity or quasi equity
- Tax advantage or tax exemption
- Grants
- Other

\* Other (please specify)

*100 character(s) maximum*

Do not know/ all options to be considered.

10. Railway undertakings may receive State aid for the purchase of new rolling stock. When replacing the old rolling stock with the new one, the beneficiary of the aid can scrap the old rolling stock. In view to support circular economy and the green transition, the following conditions could be attached to the aid in respect to the old rolling stock. Do you agree on those conditions?

\*



10.1. As result of the aid, the old rolling stock shall be offered for sale or lease on the market for a minimum of period of time by means of a well-publicised, open, transparent, non-discriminatory and unconditional sale process at market price (Single choice question)

- Yes
- No
- I don't know

\* 10.1.1. If the answer to Q 10.1. is yes, for how long should the old rolling stock remain on sale/lease on the market? (Single choice question)

- 0-3 months
- 3-6 months
- 6-9 months
- 9-12 months
- Other

\* Please justify:

*250 character(s) maximum*

This will help circular economy and ease entry barriers to the market.

\* 10.2. In order to support the greening of railway transport, would you be in favour of special environmental bonuses on State aid to the purchase or retrofit of rolling stock, if the subsidised investment enables the aid beneficiary (i) to go beyond the applicable Union standards, irrespective of the presence of mandatory national standards that are more stringent than the Union standards; or (ii) to increase the level of environmental protection in the absence of Union standards? (Single choice question)

- Yes
- No
- I don't know

\* Please justify:

*250 character(s) maximum*

Rolling stock that is more quiet than minimum set in TSI Noise or rolling stock that causes less vibrations aid should be possible. Such measures have a far better cost benefit ratio than investing in (additional) infrastructure related measures.

## Other sectors that contribute to multimodal transport solutions

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\* 11. The Railway Guidelines provide guidance on the compatibility with the Treaty of State aid to railway undertakings. In order to better contribute to the achievement of the European ambitious targets on shifting more activity towards more sustainable transport modes, would you be in favour of extending the scope of the Railway Guidelines to operators other than railway undertakings, which play a key role in the intermodal chain, such as inland waterway transport operators, logistic companies, multimodal transport operators, freight forwarders etc.? (Single choice question)

- Yes
- No
- I don't know

\* Please justify:

*250 character(s) maximum*

Aid schemes should be accessible to clients ordering rail services (intermodal operators); so they can steer the market development. On extension to inland waterways the conditions on reduction of external costs can be comparable to road transport.

\* 11.1. If the answer to Q 11 is yes, in order to contribute to achieving the targets set out Communication on a “Sustainable and Smart Mobility Strategy”,\* would you be in favour of introducing rules on State aid for the purchase and retrofit of vessels by inland waterway operators? (Single choice question)

\*COM (2020) 789 final of 9.12.2020, point 45 “Transport by inland waterways and short sea shipping will increase by 25% by 2030 and by 50% by 2050”.

- Yes
- No
- I don't know

\* Please justify:

*250 character(s) maximum*

For the Netherlands it is important to be able to subsidize purchase/retrofitting of environmentally friendly vessels, and this also requires compatibility with State aid rules.

\* 12. If the answer to Q11 is yes, what would be the most appropriate aid instrument? (Multiple choice question)

- Guarantees

- Loans
- Equity or quasi equity
- Tax advantage or tax exemption
- Grants

\* Please justify:

*250 character(s) maximum*

Based on signals from the sector.

\* 12.1. If the answer to Q11 is yes, do you think that the existing State aid tools provided in the GBER are well suited to the inland waterway sector? (Single choice question)

- Yes
- No, additional rules are required to cater for the specificities of the inland waterway sector
- I don't know

\* 13. The Railway Guidelines\* acknowledge that the transport sector may experience 'coordination' difficulties in the economic sense of the term, for example in the adoption of a common interoperability standard for rail,\*\* or in the connections between different transport networks. Accordingly, the Railway Guidelines allow for "interoperability aid",\*\*\* which is defined as aid to promote greater safety and the removal of technical barriers in the rail transport sector, by way of support to investments relating to the installation of safety systems and interoperability, or noise reduction both in rail infrastructure and in rolling stock, with particular reference to investment associated with the deployment of European Rail Traffic Management System (ERTMS).

Do you think that that State aid is needed to support interoperability also in sectors other than rail, i.e. to cover the costs for the development of any technical interoperability and information exchange systems that contribute to create a truly smart transport system and to achieve efficient capacity allocation?

\*Community guidelines on State aid for railway undertakings, OJ C 184 of 22.7.2008, p.13.

\*\*Due to differences between Member States in terms of rolling stock, technology, signalling systems, safety regulations, braking systems, traction currents and speed limits.

\*\*\*Section 6 of the Railway Guidelines.

- Yes

- No
- I don't know

13.1. If the answer to Q 13 is yes, which of the following cost categories would you include?

\* Development of Vessel Traffic Monitoring and Information Systems (VTMIS) to facilitate safe deployment of automated and autonomous maritime operations

- Yes
- No

\* Development of Cooperative Intelligent Transport Systems (C-ITS), enabling communication between vehicles, infrastructure and other road user

- Yes
- No

\* Other (please specify)

*100 character(s) maximum*

## Services of general economic interest in the rail sector

\* 14. Article 3(3) of Regulation (EC) 1370/2007 allows Member States to exclude from its scope general rules on financial compensation for public service obligations which establish maximum tariffs for pupils, students, apprentices and persons with reduced mobility. If a Member State decides to do so, the national authorities must assess the compensation provisions under the Treaty rules instead, in particular those relating to State aid. If those general rules constitute State aid, the Member State must notify those rules to the Commission in accordance with Article 108 TFEU and provide complete information on the measure and, in particular, details on the calculation method.

The Railway Guidelines do not provide specific compatibility criteria in this respect. Do you think that specific rules should be included in the Railway Guidelines on the compatibility of State aid in the form of general rules on financial compensation for public service obligations which establish maximum tariffs for pupils, students, apprentices and persons with reduced mobility?

- Yes
-

No, because the inclusion of such general rules in the scope of Regulation (EC) 1370/2007 is the norm, hence the introduction of specific State aid rules would not be justified

- No, because in any event Member States can notify such general rules directly under the Treaty
- I don't know

\* Please justify

*250 character(s) maximum*

No, because inclusion of such general rules in the scope of 1370/2007 is the norm.

\* 15. Do you consider that specific rules should be included in the Railway Guidelines on aid having a social character for the benefit of rail passengers in the form of reduction in the price of tickets for rail passenger transport services?

- Yes
- No
- I don't know

\* Please justify

*250 character(s) maximum*

Guidelines should make transparent the rules for aid for reduction of ticket prices. Transparency and non discrimination conditions between domestic and international passengers must be addressed. This is (becoming) more relevant for non PSO services

\* 16. Rail freight transport has been liberalised in the EU since 2007. However, in the State aid Railway Guidelines, the Commission acknowledges that even after the liberalisation of the sector, there may still be various market failures which justify the intervention of the public authorities.

The State aid Railway Guidelines allow for operational public support to reduce the cost of rail transport operations to encourage modal shift (aid for rail infrastructure use and aid to reduce external costs). Do you think that such operational public support is sufficient to support modal shift and to achieve a sustainable transfer of traffic? (Single choice question)

- Yes
- No, more far-reaching public measures are needed
- I don't know

\* Please justify.

*250 character(s) maximum*

Yes, the present framework is sufficient. Not clear what other far reaching instruments could be.

## Rescue and Restructuring aid to railway undertakings

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\* 17. Section 5 of the State aid Railway Guidelines set out compatibility rules for the restructuring of freight divisions of railway undertakings, that remained in force for a transitional period, namely until 1 January 2010 when the rail passenger transport market was expected to be opened up to competition. As of 1 January 2010, the horizontal Rescue and Restructuring Guidelines for non-financial undertakings\* (“R&R GL”) apply to all railway companies in difficulty.\*\*

Do you consider that specific rules on rescue and restructuring of railway undertakings in difficulty should be included in the Railway Guidelines to cater for the specificity of the rail sector? (tick one box)

\*Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p. 1–28.

\*\*In accordance with the R&R GL, an undertaking is considered to be in difficulty when, without intervention by the State, it will almost certainly be condemned to going out of business in the short or medium term. The conditions for an undertaking to be considered in difficulty are set out in point 20 of the horizontal R&R guidelines.

- Yes, because the horizontal R&R GL do not cater for the specificities of the rail sector
- No, because the horizontal R&R rules are well suited to the rail sector I don't know
- I don't know

\* Please justify

*250 character(s) maximum*

Horizontal restructuring aid guidelines should be sufficient to cater for the rail sector. Exception may be to have 10 years of restructuring aid facilities after the transitional periods from EU legal obligations after 2020 (as included 2012/34/EU).

20. Do you consider that the following derogations to general rules set out in the horizontal R&R guidelines are sufficient to cater for the needs of railway undertakings?

\* In assisted areas, the Commission may apply the provisions of section 3.6.2 of the R&R GL on measures to limit distortions of competition in such a way as to limit the

negative systemic impacts for the region, including less stringent requirements in terms of reductions of capacity or market presence\*

\*See point 98 of the horizontal R&R Guidelines.

- Yes
- No

\* In exceptional circumstances (including the ones of assisted areas where a beneficiary may face particular difficulties in raising new market financing as a result of its location in an assisted area) and in cases of particular hardship, which must be demonstrated by the Member State, the Commission may accept a contribution that does not reach 50 % of the restructuring costs, provided that the amount of that contribution remains significant\*

\*See point 64 of the horizontal R&R Guidelines.

- Yes
- No

\* Please justify

*250 character(s) maximum*

A: Do not know. B: Yes. In order to enable fast transition of railway sector.

\* 21. Do you think that the derogations provided in Section 5 of the R&R GL for SGEI providers in difficulty are well suited to railway undertakings? (Single choice question)

- Yes
- No
- I don't know

\* 22. Do you think that the special regime provided in Section 6 of the R&R GL for SMEs and smaller State-owned undertakings in difficulty is well suited to railway undertakings? (Single choice question)

- Yes
- No
- I don't know

\* 23. Do you consider there are any other conditions in the horizontal R&R GL that are particularly ill-suited to railway undertakings? (Single choice question)

- Yes

- No
- I don't know

## Financial transactions concerning railway undertakings

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- \* 24. Do you think that State aid to vertically integrated railway companies\* entails the risk of non-transparent cross-subsidisation between commercial and non-commercial activities? (Single choice question)

\*EU Directive 2012/34 (as amended by Directive (EU) 2016/2370) defines a vertically integrated railway undertaking as an undertaking where, within the meaning of Council Regulation (EC) No 139/2004: (a) an infrastructure manager is controlled by an undertaking which at the same time controls one or several railway undertakings that operate rail services on the infrastructure manager's network; (b) an infrastructure manager is controlled by one or several railway undertakings that operate rail services on the infrastructure manager's network; or (c) one or several railway undertakings that operate rail services on the infrastructure manager's network are controlled by an infrastructure manager. 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. 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.

- Yes
- No
- I don't know

- \* Please justify and provide examples

*250 character(s) maximum*

2012/34/EU should not be amended: should be sufficient guarantee for avoidance of cross-subsidization. Special issue are the conditions of borrowing on the financial markets: Guidelines should address railway undertakings in integrated structures.

- \* 25. The Commission Notice on the notion of State aid[1] (NoA Notice) provides detailed guidance on the question whether a measure constitutes State aid within the meaning of Article 107(1) of the Treaty, in relation to the different constituent elements of the notion of State aid: the existence of an undertaking, the imputability of the measure to the State, its financing through State resources, the granting of an advantage, the selectivity of the measure and its effect on competition and trade between Member States.

Have you ever encountered any issues with the application of the guidance provided in the NoA Notice, when assessing whether certain transactions constitute State aid, which typically occur within railway integrated companies, such as



recapitalisations, intra-group services, assets transfers, public guarantees, cash pooling?

\*Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union, OJ C 262, 19.7.2016, p. 1–50.

- Yes
- No
- I don't know

\* Please justify and provide examples

*250 character(s) maximum*

The Netherlands has no integrated structure between infrastructure manager and railway undertaking.

## Regional bonuses

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\* 26. 'Assisted areas' are areas approved by the European Commission, where companies can receive regional state aid aimed at promoting the development of disadvantaged regions in Europe, in application of Articles, 107(3)(a) and (c) of the Treaty. Do you think that the Railway Guidelines should provide specific rules, for example in the form of bonuses, for State aid to investments depending on the location of the investment in assisted areas? (Single choice question)

- Yes
- No
- I don't know

\* Please justify

*250 character(s) maximum*

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## Contact

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