



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.2.2007
COM(2007)78 final

2004/0047(COD)

OPINION OF THE COMMISSION

pursuant to Article 251(2), third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council's common position regarding the proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Directive 91/440/EEC on the development of the Community's railways and Directive 2001/14/EC of the European Parliament and of the Council on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure

AMENDING THE PROPOSAL OF THE COMMISSION
pursuant to Article 250 (2) of the EC Treaty

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(Text with EEA relevance)

1. Introduction

Article 251(2), third subparagraph, point (c) of the EC Treaty requires the Commission to deliver an opinion on amendments proposed by the European Parliament at second reading. The Commission sets out its opinion below on the amendments proposed by Parliament.

2. Background

Date of transmission of the proposal to the EP and the Council (document COM(2004) 139 final – C6-0309/2006 - 2004/0047(COD):	4 March 2004
Date of the opinion of the European Economic and Social Committee:	9 February 2005
Date of the opinion of the European Parliament, first reading:	28 September 2005
Date of adoption of the common position by qualified majority:	24 July 2006
Date of the opinion of the European Parliament, second reading	18 January 2007

3. Objective of the Commission Proposal

With this proposal and in line with the White Paper 'European transport policy for 2010: time to decide', the Commission intends continuing the reform of the rail sector by **opening the international transport of passengers within the European Union to competition**.

This is one of the four measures the Commission proposed in the context of the **third railway package** (the other measures are intended to improve the rights of passengers using international services, to establish a certification system for train drivers and to improve the quality of rail freight services).

This particular proposal provides that as from 1 January 2010, railway undertakings, which have a licence and the required safety certificates, should have access to the infrastructure to operate international passenger services in the Community.

In order to create realistic economic conditions to develop the services, it is proposed that operators be permitted to pick up and set down passengers at any station on an international route, including at stations located in the same Member State. This has been organised in such a way as to safeguard the economic equilibrium of public service contracts which could be affected by this, while at the same time not placing exaggerated constraints on the operating conditions of railway undertakings operating international open access rail passenger services.

4. Opinion of the Commission on the amendments adopted by the Parliament

The Commission can accept in their entirety or partly most of the amendments adopted by the European Parliament in second reading. The amendments the Commission can agree with clarify the proposal made by the Commission, introduce additional reporting requirements and modify certain comitology provisions based on Council Decision 2006/512/EC of 17 July 2006 amending Council Decision 1999/468/EC.

Amendments concerning the levy to finance public services (8, 21, 22, 23): These amendments clarify the scope of such a levy and the conditions of raising it.

Amendment 11 on the length of framework agreements: this amendment introduces a recital on the proposed provision in the Directive to extend the standard duration of framework agreements in the case of specialised infrastructure and substantial long term investment to 15 years.

Amendments on reporting requirements (13, 24, 25): these amendments modify the reporting requirements of the Commission. Amendment 24 suggests adding assessing the impact of the directive in small countries of the EU. The other two amendments suggest focussing the 2012 report on the state of preparation for the opening of the market for national passenger services and require another report in 2018 on the application of the compromising economic viability test of public services through cabotage as well as of the reciprocity clause. The Commission can agree on assessing in 2012 the state of preparation for the opening of the market for national passenger services. However, it considers that the two assessment items proposed for the report in 2018 should be advanced to the 2012 report. The two amendments require redrafting as the reference to domestic rail passenger market opening is not relevant anymore due to the fact that it has not been voted by the Plenary.

Amendments on comitology procedure (14, 26, 27, 31, 32): These amendments align the comitology provisions of Directive 91/440/EEC as amended by this Directive to Council Decision 2006/512/EC of 17 July 2006.

Other amendments (16, 19, 30): introduce drafting clarifications to the Commission proposal.

The Commission, however, cannot agree to amendment 3 which deletes recital 8. The Commission considers the enumeration in recital 8 of criteria and procedural aspects for the assessment of whether the principal purpose of a cabotage service is international transport as important for the transparency of the procedure.

The Commission cannot agree to amendment 2 as it does not make sense to grant new Member States the right to postpone opening of national rail passenger markets by 5 years if this Directive does not open domestic rail passenger markets at all.

5. Conclusion

Pursuant to Article 250(2) of the EC Treaty, the Commission amends its proposal as set out above.