

PRIME Meeting no 14

13th of June 2019, BERN, CH

Feedback from the Charges Subgroup

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– For information and discussion –

Context for the Subgroup

The Platform for Rail Infrastructure Managers in Europe (PRIME) has identified **infrastructure charging** as a tool to encourage optimal use of the railway infrastructure at EU level. A **Subgroup** was established in spring 2017 with the aim of enhancing cross-border cooperation between Infrastructure Managers (IM) and share best practices in terms of charging policies within the legal framework established by the EU.

Mission

The mission of this Subgroup is to help IM and charging bodies in setting their charging policies in consistency with EU policy and legislation, in order to guarantee optimal competitiveness of international rail services and ensure the efficient use of the railway networks.

Status of work

Following the mandate from last PRIME plenary meeting (Amersfoort June 2018) the subgroup has tackled different topics related to international traffic like mark-ups and cancellation charges in the event of a cancellation of an international train path due to force majeure incidents.

Regarding mark-ups, the group is working on a paper; work is led by the Commission with the collaboration of some IMs that have shared information about their systems.

The Subgroup has held three meetings since the last PRIME plenary. The above mentioned topics were discussed in all meetings. Additionally, the subgroup had a joint meeting with the IRG-Rail (Independent Regulators Group) to exchange views on charging issues within the rail sector.

In detail:

The topic of mark-ups will be addressed in a common paper comprising three parts: the first part of the paper compiles experiences of IMs defining the level of mark-ups. Mark-ups are market segment related and need to consider the relative ability to bear mark-ups above direct costs of each market segment. The second part is about the definition of mark-ups for the PSO market segment and the third will address the degree of independence of IMs in defining their charging schemes and the interaction with regulatory bodies (RBs). The paper is still under preparation.

The topic of cancellations of international train runs due to force majeure reasons was raised to PRIME plenary by the RAG of the RFC RALP. The PRIME plenary requested the subgroup to discuss it.

International train runs, in particular those involving rail freight transport, cross several countries. Force majeure incidents do not allow those trains to run. On the national level, the allocated train paths are then cancelled at no charge for the railway undertaking. On international level and for international train paths such a practice is not always applied. Cancellation charges are instead levied for not running the train in the neighbouring countries. This leads to unfair treatment and discrimination of railway undertakings that run international trains. It further makes international train runs more expensive and penalises rail transport.

In relation to this topic, the group discussed the definition of force majeure and a list of force majeure cases to assimilate the approach to the topic. Based on common work of RNE and CIT for the European General Terms and Conditions of use of railway infrastructure (E-GTC-I), the common definition thereof could be accepted. RNE/CIT also provides a common list of force majeure incidents. Nevertheless, the assessment of force majeure events between IMs differs.

DG MOVE proposed as a practical approach that each IM decides if there is a force majeure incident based on its own procedure. If this decision is taken, the IM needs to communicate its decision to the other IMs concerned by the train run. DG MOVE proposed to agree in a MoU on appropriate communication lines.

As the amount of relevant cases, financial impacts and recognition of international train runs are decisive besides establishing best communication lines between IMs, the subgroup proposed to test the approach for a mutual recognition of force majeure events. RNE will be asked to cooperate closely to build on existing IT tools and align findings and procedures.

In general, the commitment of the members of the subgroup is reinforcing from meeting to meeting, with a higher degree of engagement and transparent discussions between them.

PRIME discussion

Regarding to the discussion at the 14th PRIME meeting, the PRIME members are invited **to discuss** on the possible content and conclusion of a MoU providing for the mutual acceptance of force majeure cases so that IMs concerned could waive cancellation charges for international trains subject to those cases. Furthermore, PRIME members are invited to support the test on force majeure cancellations. The charges subgroup suggested that the test could be performed on one of the rail freight corridors.