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*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail (COM(2013)0028 – C7-0024/2013 – 2013/0028(COD))

Committee on Transport and Tourism

Rapporteur: Mathieu Grosch

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail (COM(2013)0028 – C7-0024/2013 – 2013/0028(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0028),
 - having regard to Article 294(2) and Article 91 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7 0024/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Seimas of the Republic of Lithuania, the Luxembourg Chamber of Deputies, the Netherlands Senate and the Netherlands House of Representatives, the Austrian Federal Council and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on Employment and Social Affairs and the Committee on Regional Development (A7-0034/2014),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Over the past decade, the growth of passenger traffic by rail has been insufficient to increase its modal share in comparison to cars and aviation. The 6% modal share of passenger transport for rail in the European Union has remained fairly stable. Rail passenger services have not kept pace with *evolving needs* in terms of availability and quality.

Amendment

(1) Over the past decade, the growth of passenger traffic by rail has been insufficient to increase its modal share in comparison to cars and aviation. The 6% modal share of passenger transport for rail in the European Union has remained fairly stable. Rail passenger services have not kept pace with *the evolution of other modes of transport* in terms of availability, *price* and quality. *Bearing that in mind, all relevant lessons need to be learnt from the approach adopted by the Union in the course of the last three railway reforms.*

Amendment 2

Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Rail transport plays a major role socially and environmentally, and in terms of mobility planning, and can significantly increase its overall share of European passenger transport. In this regard, investment in research as well as in infrastructure and rolling stock can make a significant contribution to new growth, thereby boosting employment directly in the railway sector and indirectly by increasing the mobility of employees of other sectors. Rail transport has the potential to develop into an important modern branch of Union industry, provided that Member States agree on greater cooperation.

Amendment 3

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) In order to ensure that high service quality is provided to passengers, while achieving public passenger transport policy objectives, open access rights should be the rule, and should be coordinated through inter alia mandatory tendering for public service contracts

Justification

Open access operations are based solely on commercial results and passengers satisfaction thus can at best deliver high service quality

Amendment 4

Proposal for a regulation

Recital 2 b (new)

Text proposed by the Commission

Amendment

(2b) The direct award of a public service contract should be restricted to specific situations that arise, such as the risk of disruption in the provision of services, and should therefore be limited in time

Justification

Directly awarded contract should be the exception and not the rule

Amendment 5

Proposal for a regulation

Recital 3

Text proposed by the Commission

Amendment

(3) In its White Paper on transport policy of 28 March 2011 the Commission announced its intention to complete the

(3) In its White Paper on transport policy of 28 March 2011 the Commission announced its intention to complete the

internal railway market, allowing railway undertakings of the Union to provide all types of rail transport services without unnecessary technical and administrative barriers.

internal railway market, allowing railway undertakings of the Union to provide all types of rail transport services without unnecessary technical and administrative barriers. ***In order to better achieve that objective, the current reform needs to be conceived in the light of the railway models which have proved to be effective in the Union.***

Amendment 6

Proposal for a regulation Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The quality of public services for rail passenger transport should be improved and their efficiency increased, whilst existing public passenger transport services that function efficiently are maintained.

Amendment 7

Proposal for a regulation Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) The completion of the opening of the Union railway market should be considered to be essential in order for the railway to become a credible alternative to other modes of transport, in terms of price and quality.

Amendment 8

Proposal for a regulation Recital 3 c (new)

Text proposed by the Commission

Amendment

(3c) It is essential for the competent authorities to play a key role in the organisation of public passenger transport services. Such authorities have responsibility for planning public passenger transport services, including for indentifying the routes to be designated for open access or awarded under public service contracts and for determining the award procedure. Furthermore, they should justify that viability, efficiency and quality targets can only be achieved by using the award procedure that they have chosen, and should publish this justification.

Amendment 9

Proposal for a regulation

Recital 4

Text proposed by the Commission

Amendment

(4) When competent authorities organise their public passenger transport services they need to ensure that public service obligations and the geographical scope of public service contracts are appropriate, necessary and proportionate to achieve the objectives of the public passenger transport policy in their territory. This policy should be set out in public transport plans leaving scope for market based transport solutions. The process of defining public transport plans and public service obligations should be made transparent to relevant stakeholders including potential market entrants.

(4) When competent authorities organise their public passenger transport services they need to ensure that public service obligations and the geographical scope of public service contracts are appropriate, necessary and proportionate to achieve the objectives of the public passenger transport policy in their territory. This policy should be set out in ***sustainable*** public transport plans leaving scope for market based transport solutions. The process of defining public transport plans and public service obligations should be made transparent to relevant stakeholders including potential market entrants.

Amendment 10

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) To ensure sound financing to meet the objectives of public transport plans, competent authorities need to design public service obligations to attain public transport objectives in a cost-effective manner taking account of the compensation for the net financial effect of those obligations and they need to ensure long-term financial sustainability of public transport provided under public service contracts.

Amendment

(5) To ensure sound financing to meet the objectives of **sustainable** public transport plans, competent authorities need to design public service obligations to attain public transport objectives in **both a high-quality and** a cost-effective manner, taking account of the compensation for the net financial effect of those obligations and they need to ensure long-term financial sustainability of public transport provided under public service contracts. ***That includes avoiding both over- and under-compensation, caused by the substance of the public service obligations, or the failure of the competent authority to meet its financial commitments.***

Public service obligations may refer to networks in which some services can be operated with a fair profit without financial compensation; the inclusion of such services within the scope of the public service obligations should not result in compensation payments exceeding the amount necessary for providing the whole range of network services.

Amendment 11

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) A maximum annual volume of a public service contract for passenger transport by rail needs to be set **to facilitate** competition for such contracts while allowing

Amendment

(7) A maximum annual volume of a public service contract for passenger transport by rail needs to be set **in a way that facilitates** competition **between small bidders, new**

competent authorities some flexibility to optimise the volume according to economic and operational considerations.

entrants and the incumbent operator for such contracts while allowing competent authorities some flexibility to optimise the volume according to economic and operational considerations.

Justification

The volume of a public contract should be set in a way that will encourage new entrant and smaller bidders to participate in the tender procedure

Amendment 12

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) To facilitate the preparation of tenders, and hence enhance competition competent authorities need to ensure that all public service operators interested in making such a submission receive certain information on the transport services and infrastructure covered by the public service contract.

Amendment

(8) To facilitate the preparation of tenders, and hence enhance competition competent authorities need to ensure that, ***whilst protecting business secrets***, all public service operators interested in making such a submission receive certain information on the transport services and infrastructure covered by the public service contract ***that prevents them from being deemed to have been discriminated against by the contracting authority with regard to other competitors***.

Amendment 13

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The principle of reciprocity is an important means of counteracting distortion of competition. This principle should apply not only to Member States, but also to companies from third countries that wish to participate in

procurement procedures within the Union.

Amendment 14

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) The establishment of an Internal Market for passenger transport services by rail requires common rules on competitive tendering for public service contracts in this sector *to be applied* in a harmonised manner in all Member States.

Amendment

(10) The establishment of an Internal Market for passenger transport services by rail requires common rules on competitive tendering for public service contracts in this sector *which are applicable* in a harmonised manner in all Member States, *whilst taking into account the specific circumstances of each Member States.*

Amendment 15

Proposal for a regulation Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) The principle of reciprocity should be applied in order to ensure fair competition and to prevent the misuse of compensation. Undertakings which are awarded public service contracts through a direct award procedure should not take part in procurement procedures for public service contracts.

Justification

Undertakings should not exploit advantages which they may have gained through a direct award procedure to distort competition. It should still be possible to employ direct award procedures, but the undertakings concerned should then be banned from taking part in other procurement procedures.

Amendment 16

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) **In** view **of** creating framework conditions for enabling society to fully reap the benefits of effective opening of the market for domestic passenger transport services by rail it is important that Member States ensure an adequate level of social protection for the staff of public service operators.

Amendment

(11) **With a** view **to** creating framework conditions for enabling society to fully reap the benefits of effective opening of the market for domestic passenger transport services by rail it is important that Member States ensure:

(a) an adequate level of social protection for the staff of public service operators;

(b) **a minimum service level during public transport strikes.**

Justification

Services provided under a public service contract are financed with public money. To make sure passengers can always rely on those services, Member States have to ensure a minimum level of service during strikes.

Amendment 17

Proposal for a regulation Article 1 – introductory part

Text proposed by the Commission

Regulation (EC) No 1370/2007 is amended as follows:

Amendment

Without prejudice to Union law on public procurement [Directive..., not yet published], Regulation (EC) No 1370/2007 is amended as follows:

Justification

This revision of Regulation (EC) No. 1370/2007 may not impede on the general public procurement law of the Union.

Amendment 18

Proposal for a regulation

Article 1 – point 1 – point -a(new)

Regulation (EC) No. 1370/2007

Article 2 – point a a (new)

Text proposed by the Commission

Amendment

"(aa) 'public rail passenger transport' means public passenger transport by rail, excluding passenger transport on other track-based modes, such as metros, tramways or, if Member States so decide, tram-train systems;"

Amendment 19

Proposal for a regulation

Article 1 – point 1 – point a

Regulation (EC) No 1370/2007

Article 2 – point c

Text proposed by the Commission

Amendment

"(c) "competent local authority" means any competent authority whose geographical area of competence is not national and which covers the transport needs of an urban agglomeration or a rural *district*;"

"(c) "competent local authority" means any competent authority whose geographical area of competence is not national and which covers, the transport needs of, *inter alia*, an urban agglomeration *and/or* a rural *area, or a region, including at cross-border level*;"

Justification

This amendment is necessary for clarification purposes, as there is currently no European definition of 'urban agglomerations' or 'rural areas'.

Amendment 20

Proposal for a regulation

Article 1 – point 1 – point b

Regulation (EC) No 1370/2007

Article 2 – point e

Text proposed by the Commission

"The scope of public service obligations shall **exclude all** public transport services that **go beyond of what is necessary to reap** local, regional or sub-national **network effects**.

Amendment

"The scope of public service obligations shall **cover** public transport services that **are** necessary, **inter alia, for the benefits of economic, technical or geographical** network effects to **be reaped at** local, regional or sub-national **level**. **Such network effects arise through the integration of transport services, which makes public transport more attractive for passengers and more efficient for the public transport sector. Network effects may be generated both by services which attain break- even and by services which do not , as well as at various geographical-, train schedule- or tariff-levels.**".

Amendment 21

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No. 1370/2007

Article 2 a – Title

Text proposed by the Commission

Public transport plans and public service obligations

Amendment

Multimodal and sustainable public transport plans and public service obligations

Amendment 22

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No. 1370/2007

Article 2 a – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

1. Competent authorities shall establish and regularly update public passenger transport plans covering all relevant transport modes

Amendment

1. Competent authorities shall establish and regularly update **multimodal** public passenger transport plans covering all

for the territory for which they are responsible. These public transport plans shall define the objectives of public transport policy and the means to implement them covering all relevant transport modes for the territory for which they are responsible. **They** shall at least include:

relevant transport modes for the territory for which they are responsible. These public transport plans shall define the objectives of public transport policy and the means to implement them covering all relevant transport modes for the territory for which they are responsible, **thereby promoting social and territorial cohesion. It shall be possible for those plans to consist of information on public transport plans that already exists in the public domain. Where interregional services already exist, they shall be taken into account. Those plans** shall at least include:

Amendment 23

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) basic requirements to be fulfilled by public transport offer **such as** accessibility, **territorial connectivity, security**, modal and intermodal interconnections at main connecting hubs, **offer characteristics such as times of operation, frequency of services and minimum degree of capacity utilisation;**

Amendment

(b) basic requirements to be fulfilled by public transport offer, **including, inter alia,** accessibility **for persons with disabilities,** **and** modal and intermodal interconnections at main connecting hubs;

Justification

The requirements for these transport plans should not go beyond what is necessary. Detailed requirements should remain at the discretion of the competent authority in accordance with the principle of subsidiarity.

Amendment 24

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 1 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) for public rail passenger transport, efficiency criteria including inter alia modal share of public transport, punctuality, cost-efficiency, frequency of services, customer satisfaction and the quality of rolling stock;

Amendment 25

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 1 – subparagraph 1 - point c

Text proposed by the Commission

Amendment

(c) quality standards related to items such as equipment features of stops and of rolling stock, punctuality and reliability, cleanliness, customer service and information, complaint handling and redress, monitoring of service quality;

(c) quality and safety standards as well as control aspects regarding the rolling stock, infrastructure and services, including information;

Justification

The requirements for these transport plans should not go beyond what is necessary. Detailed requirements should remain at the discretion of the competent authority in accordance with the principle of subsidiarity.

Amendment 26

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No. 1370/2007

Article 2 a – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) principles of tariff policy;

(d) principles of tariff policy, such as the

use of social tariffs;

Amendment 27

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) operational requirements such as transport of bicycles, traffic management, contingency plan in case of disturbances.

(e) applicable rules regarding passenger rights, social and employment conditions, environmental protection and the establishment of environmental objectives.

Amendment 28

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

In establishing public transport plans, competent authorities shall have regard in particular to applicable rules regarding passenger rights, social, employment and environmental protection.

deleted

Justification

These aspects are already included in Article 2a(1)(e) to give them greater importance, so they can be deleted here.

Amendment 29

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 1 – subparagraph 3

Text proposed by the Commission

The competent authorities shall adopt the public transport plans after consultation of relevant stakeholders **and publish them**. **For the purpose of this Regulation, relevant stakeholders to be taken into consideration are** at least transport operators, infrastructure managers **if appropriate**, and representative passenger and employee organisations.

Amendment

The competent authorities shall adopt the public transport plans after consultation of relevant stakeholders, **including** at least transport operators, infrastructure managers and representative passenger and employee organisations, **and shall publish those plans**.

Amendment 30

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

(b) they shall be appropriate to achieve the objectives of the public transport plan;

Amendment

(b) they shall be appropriate to achieve the objectives of the public transport plan, **i.e. they shall determine the award procedure in terms of quality standards to be achieved and the appropriate means of doing so, in order to meet the objectives of the public transport plan**;

Justification

Necessary clarification of the term ‘appropriate’.

Amendment 31

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 3 – subparagraph 1 – point c

Text proposed by the Commission

(c) they shall **not exceed what is** necessary

Amendment

(c) they shall **be** necessary and

and proportionate to achieve the objectives of the public transport plan.

proportionate to achieve the objectives of the public transport *plans and, in respect of public passenger transport by rail, they shall take into account Directive 2012/34/EU of the European Parliament and of the Council*¹.

¹ *Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).*

Amendment 32

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

The assessment of appropriateness referred to in point (b) shall take into account whether a public intervention in the provision of passenger transport is a suitable means of achieving the objectives of the public transport plans.

deleted

Justification

The explanation regarding appropriateness was already included in Article 2a(3)(b), so it can be deleted here.

Amendment 33

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

For public passenger transport by rail the

deleted

assessment of necessity and proportionality referred to in point (c) shall take into account the transport services provided under Article 10(2) of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast) and consider all information given to the infrastructure managers and regulatory bodies pursuant to the first sentence of Article 38(4) of that Directive.

Justification

The content of this subparagraph was included in Article 2a(3)(c).

Amendment 34

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 4

Text proposed by the Commission

The specifications of public service obligations and the related compensation of the net financial effect of public service obligations shall:

(a) achieve the objectives of the public transport plan in the most cost-effective manner;

(b) financially sustain the provision of public passenger transport *in accordance to the requirements laid down in the public transport plan* in the long term.

Amendment

The specifications of public service obligations and the related compensation of the net financial effect of public service obligations shall achieve the objectives of the public transport plan in the most cost-effective manner *and shall* financially sustain the provision of public passenger transport in the long term.

Justification

The amendment is easier to read.

Amendment 35

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 5 – subparagraph 2

Text proposed by the Commission

The competent authority shall ***in an appropriate manner*** consult relevant stakeholders such as ***a minimum***, transport operators, infrastructure managers ***if appropriate*** and representative passenger and employee organisations on these specifications and take their positions into consideration.

Amendment

The competent authority shall consult relevant stakeholders such as transport operators, infrastructure managers and representative passenger and employee organisations on these specifications and take their positions into consideration.

Justification

The competent authorities should carry out a consultation which includes representative passenger associations and employee organisations and not just consult them if appropriate.

Amendment 36

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No. 1370/2007

Article 2 a – paragraph 6 – point a

Text proposed by the Commission

(a) compliance of the assessment and of the procedure set out in this Article shall be ensured by the regulatory body referred to in ***Art 55*** of Directive 2012/34/EU ***including on its own initiative.***

Amendment

(a) compliance of the assessment and of the procedure set out in this Article shall be ensured by the regulatory body referred to in ***Article 55*** of Directive 2012/34/EU ***at the request of any stakeholder concerned;***

Amendment 37

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 6 – point b

Text proposed by the Commission

(b) the *maximum annual volume* of a public service *contract* in *terms of train-km* shall be the higher value of either 10 million train-km or one third of the total national *public rail passenger transport* volume *under public service contract*.

Amendment

(b) the *minimum number* of public service *contracts for rail transport* in a *Member State* shall be:

- one, in the case of a national market volume of rail passenger transport under public service contract of up to 20 million train-km;

- two in the case of a national market volume of rail passenger transport under public service contract of more than 20 million train-km and up to 100 train-km, on condition that the size of one contract does not exceed 75% of the total market volume under public service contracts;

- three in the case of a national market volume of rail passenger transport under public service contract of more than 100 million train-km and up to 200 million train-km, on condition that the size of one contract does not exceed 65% of the total market volume under public service contracts;

- four in the case of a national market volume of rail passenger transport under public service contract of more than 200 million train-km, on condition that the size of one contract does not exceed 50% of the total market volume under public service contracts.

Amendment 38

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 6 – point c (new)

Text proposed by the Commission

Amendment

(c) The competent authority shall determine the routes to be awarded under public service contracts in accordance with Directive 2012/34/EU.

Amendment 39

Proposal for a regulation

Article 1 – point 3 – point a

Regulation (EC) No 1370/2007

Article 4 – paragraph 1 – point a

Text proposed by the Commission

Amendment

"(a) clearly define the public service obligations laid down in Article 2(e) and Article 2a with which the public service operator is to comply, and the ***geographical areas*** concerned;"

"(a) clearly define the public service obligations laid down in Article 2(e) and Article 2a with which the public service operator is to comply, and the ***transport networks*** concerned, ***and require the operator to provide the competent authority with all the information essential for the award of public service contracts, whilst protecting business secrets;***";

Justification

It is necessary to ensure that the competent authority receives all key information from the operator in order to draw up the service contracts.

Amendment 40

Proposal for a regulation

Article 1 – point 3 – point b

Regulation (EC) No. 1370/2007

Article 4 – paragraph 1 – point b – last sentence

Text proposed by the Commission

"In the case of public service contracts not awarded according to Article 5(3), these parameters shall be determined in such a way that **no** compensation **payment may** exceed the amount required to cover the net financial effect on costs incurred and revenues generated in discharging the public service obligations, taking account of revenue relating thereto kept by the public service operator and a reasonable profit;"

Amendment

"In the case of public service contracts not awarded according to Article 5(3), these parameters shall be determined in such a way that **compensation shall neither** exceed **nor fall below** the amount required to cover the net financial effect on costs incurred and revenues generated in discharging the public service obligations, taking account of revenue relating thereto kept by the public service operator and a reasonable profit;"

Amendment 41

Proposal for a regulation

Article 1 – point 3 – point b b (new)

Regulation (EC) No. 1370/2007

Article 4 – paragraph 5

Present text

5. Without prejudice to national and **Community** law, including collective agreements between social partners, competent authorities **may** require the selected public service operator to grant staff previously taken on to provide services the rights to which they would have been entitled if there had been a transfer within the meaning of Directive 2001/23/EC. Where competent authorities require public service operators to comply with certain social standards, tender documents and public service contracts shall list the staff concerned and give **transparent** details of their contractual rights and the conditions under which employees are deemed to be linked to the services.

Amendment

(bb) Paragraph 5 is replaced by the following:

"Without prejudice to national and **Union** law, including **representative** collective agreements between social partners, competent authorities **shall** require the selected public service operator to grant staff **working conditions on the basis of binding national, regional or local social standards and/or to implement the compulsory transfer of staff in case of change of operator. When such transfer occurs, the staff** previously taken on **by the previous operator** to provide services **shall be granted** the **same** rights to which they would have been entitled if there had been a transfer within the meaning of Directive 2001/23/EC. Where competent authorities require public service operators to comply with certain social standards, tender documents and public service contracts

shall list the staff concerned and give **transparently** details of their contractual rights and the conditions under which employees are deemed to be linked to the services.";

This amendment seeks to amend a provision within the existing act – Article 4(5) – that was not set out in full in the Commission proposal

Amendment 42

Proposal for a regulation

Article 1 – point 3 – point c

Regulation (EC) No 1370/2007

Article 4 – paragraph 6

Text proposed by the Commission

"Where competent authorities, **in accordance with national law, require public service operators to comply with certain** quality and social standards **or establish** social and qualitative criteria, **these standards and criteria shall be included** in the tender documents and in the public service contracts.

Amendment

"6. In accordance with national law, the competent authorities **shall , set binding** quality and social standards, **lay down appropriate** social and qualitative criteria, **including the obligation of public service operators to comply with the applicable representative collective agreements and ensure decent employment and working conditions, including them or make reference thereto** in the tender documents and in the public service contracts, **regardless of the award procedure."**;

Amendment 43

Proposal for a regulation

Article 1 – point 3 – point d

Regulation (EC) No 1370/2007

Article 4 – paragraph 8

Text proposed by the Commission

"8. Competent authorities shall make available to all interested parties relevant information for the preparation of an offer under a competitive tender procedure. This

Amendment

"8. Competent authorities shall make available to all interested parties relevant information for the preparation of an offer under a competitive tender procedure,

shall include information on passenger demand, fares, costs and revenues related to the public passenger transport covered by the tender and details of the infrastructure specifications relevant for the operation of the required vehicles or rolling stock to enable them to draft well informed business plans. Rail infrastructure managers shall support competent authorities in providing all relevant infrastructure specifications. Non-compliance with the provisions set out above shall be subject to the legal review provided for in Article 5(7).

whilst protecting business secrets. This shall include information on passenger demand, fares, costs and revenues related to the public passenger transport covered by the tender and details of the infrastructure specifications relevant for the operation of the required vehicles or rolling stock to enable them to draft well informed business plans. Rail infrastructure managers shall support competent authorities in providing all relevant infrastructure specifications. Non-compliance with the provisions set out above shall be subject to the legal review provided for in Article 5(7).".

Amendment 44

Proposal for a regulation

Article 1 – point 4 – point –a (new)

Regulation (EC) No. 1370/2007

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(-a) the following paragraph is inserted:

Ia. Any competent authority, whether it is an individual authority or a group of authorities, including from more than one Member State, shall be entitled to award public service contracts in accordance with the rules laid down in this Regulation.

Amendment 45

Proposal for a regulation

Article 1 point 4 – point -a a (new)

Regulation (EC) No. 1370/2007

Article 5 – paragraph 2 – point d

Present text

Amendment

(-aa) Point (d) of paragraph 2 is replaced

(d) in the absence of a competent local authority, points (a), (b) and (c) shall apply to a national authority ***for the benefit of a geographical area which is not national***, provided that the internal operator does not take part in competitive tenders concerning the provision of public passenger transport services organised outside the area for which the public service contract has been granted;

This amendment seeks to amend a provision within the existing act – Article 5(2)(d) – that was not set out in full in the Commission proposal.

Amendment 46

Proposal for a regulation

Article 1 – point 4 – point –a b (new)

Regulation (EC) No. 1370/2007

Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(-ab) The following paragraph is inserted:

3a. Until the end of the transition period referred to in Article 8(2), Member States and, if permitted by national law, competent authorities may exclude from competitive tendering procedures organised by the competent authorities in their territory pursuant to paragraph 3 of this Article, any railway undertaking or operator or any subsidiary directly or indirectly controlled by railway undertakings or their holding companies if at least one of the following conditions is met:

(a) the controlling railway undertaking is licensed or the controlling holding company is established in a Member State in which the competent authorities are not permitted to award public service contracts through competitive tendering procedures, or

(b) the railway undertaking and its subsidiaries have benefitted from directly awarded public service contracts for rail transport services whose share in terms of value is higher than 50% of the total value of all public service contracts for rail transport services awarded to that railway undertaking and its subsidiaries.

For the purpose of this paragraph, control shall be defined as any rights, contracts or any other means which, either separately or in combination, and having regard to any relevant considerations of fact or law, provide the opportunity to exert a decisive influence on an undertaking, in particular through:

(a) ownership or the right to use all or part of the assets of an undertaking;

(b) rights or contracts which confer decisive influence over the composition, voting or deliberations of the social organs of that undertaking.

The competent authority may exclude from the competitive tendering procedures any operator or undertaking that is directly or indirectly controlled, by legal or natural person or persons registered in a third country or third countries, save where those country or countries have taken measures that allow public service contracts to be awarded through competitive tendering to railway undertakings licensed in a Member State.

Amendment 47

Proposal for a regulation

Article 1 – point 4 – point a

Regulation (EC) No 1370/2007

Article 5 – paragraph 4 – subparagraph 1 – point b

Text proposed by the Commission

(b) where they concern the annual provision of less than 300 000 **kilometres** of public passenger transport services or less than **150 000 kilometres** in the case of a public service contract including public transport by rail.

Amendment

(b) where they concern the annual provision of less than 300 000 **vehicle-km** of public passenger transport services or less than **500 000 vehicle-km** in the case of a public service contract including public transport by rail.

Justification

The threshold proposed by the Commission does not correspond to the amount expressed in euros in Article 5(4)(a), so the change made here must correspond to the average ticket prices. Furthermore, the competent authorities should provide proof based on economy, efficiency and quality objectives.

Amendment 48

Proposal for a regulation

Article 1 – point 4 – point a

Regulation (EC) No 1370/2007

Article 5 – paragraph 4 – subparagraph 2

Text proposed by the Commission

In the case of a public service contract directly awarded to a small or medium-sized enterprise operating not more than 23 road vehicles, these thresholds may be increased to either an average annual value estimated at less than EUR 2 000 000 or to an annual provision of less than 600 000 **kilometres** of public passenger transport services.

Amendment

In the case of a public service contract directly awarded to a small or medium-sized enterprise operating not more than 23 road vehicles, these thresholds may be increased to either an average annual value estimated at less than EUR 2 000 000 or to an annual provision of less than 600 000 **vehicle-km** of public passenger transport services.

Justification

The ceiling of 23 road vehicles laid down in the regulation seems arbitrary, as it is not consistent with the Commission's current definition of an SMU (Recommendation 2003/361/EC).

Amendment 49

Proposal for a regulation

Article 1 – point 4 – point a a (new)

Regulation (EC) No. 1370/2007

Article 5 – paragraph 5

Present text

5. In the event of a disruption of services or the immediate risk of such a situation, the competent authority may take an emergency measure. ***This emergency measure shall take the form of a direct award or a formal agreement to extend a public service contract or a requirement to provide certain public service obligations. The public service operator shall have the right to appeal against the decision to impose the provision of certain public service obligations. The award or extension of a public service contract by emergency measure or the imposition of such a contract shall not exceed two years.***

This amendment seeks to amend a provision within the existing act – Article 5(5) – that was not referred to in the Commission proposal.

Amendment

Paragraph 5 is replaced by the following:

“5. In the event of a disruption of services or the immediate risk of such a situation, the competent authority may take an emergency measure. A situation of emergency may include the inability of the competent authority to timely launch a tender procedure for a public service contract and/or to timely award that contract to an operator.”

Justification

It is proposed to include a new exception to the principle of competitive tendering procedure in case where too many contracts expire at the same time in a Member States. In such a case the competent authorities of the Member State may not have the administrative capacity to properly prepare different procedures at the same time. On top of that railway operators may not be able to prepare more than a certain number of bids at the same time.

Amendment 50

Proposal for a regulation

Article 1 – point 4 – point b

Regulation (EC) No. 1370/2007

Article 5 – paragraph 6

Text proposed by the Commission

Paragraph 6 is replaced by the following:

"Competent authorities may decide that, in order to increase competition between railway undertakings, contracts for public passenger transport by rail covering parts of the same network or package of routes shall be awarded to different railway undertakings. To this end the competent authorities may decide before launching the tender procedure to limit the number of contracts to be awarded to the same railway undertaking."

Amendment

Paragraph 6 is replaced by the following:

"6. n accordance with Directive 2012/34/EU, and unless prohibited by national law, those competent authorities which are responsible for establishing public transport plans as referred to in Article 2a may decide to proceed to the direct award of public service contracts concerning public rail passenger transport services, subject to the following conditions:

(a) the public transport plan contains requirements applicable for the entire duration of the contract concerning the following:

- evolution of passenger volumes,***
- punctuality of services,***
- cost-efficiency in terms of capital productivity,***
- frequency of train operations,***
- customer satisfaction,***
- quality of rolling stock.***

(b) the competent authority publishes no later than 18 months before the start of the contract how the requirements set out in (a) are to be complied with through the direct award of a public service contract and regularly evaluates compliance with these requirements in the annual report referred to in Article 7(1). If a complaint of an interested railway operator or undertaking regarding the direct award of the contract is filed, the regulatory body evaluates the reasons provided by the competent authority and takes a decision no later than two months after the complaint was filed. The regulatory body may also act on its own initiative.

(c) the regulatory body evaluates no later than 24 months before the end of the current contract whether the requirements set out in point (a) of Article 5(6) and assessed in accordance with Article 7(1) have been complied with. The competent authority shall provide to the regulatory body all data necessary for its evaluation .

Where the regulatory body concludes that the requirements set out in point (a) of Article 5(6) have not been complied with, it shall without delay oblige the competent authority to award any new public service contract in accordance with Article 5(3). The decision of the independent regulatory authority shall be binding and immediately applicable.

By way of derogation to Article 4(3), the duration of such contracts shall not exceed nine years.

The Commission shall adopt delegated acts, in accordance with Article 9-a detailing the requirements set out in point (a) of Article 5(6)."

Amendment 51

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No. 1370/2007

Article 5 a – paragraph 1

Text proposed by the Commission

1. **Member States** shall in compliance with State aid rules take the necessary measures to ensure effective and non-discriminatory access to suitable rolling stock for public passenger transport by rail for operators wishing to provide public passenger transport services by rail under public service contract.

Amendment

1. **The competent authorities** shall, in compliance with State aid rules, take the necessary measures to ensure effective and non-discriminatory access **conditions** to suitable rolling stock for public passenger transport by rail for operators wishing to provide public passenger transport services by rail under **a** public service contract.

Amendment 52

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 1370/2007

Article 5 a – paragraph 2 – subparagraph 2 – introductory part

Text proposed by the Commission

The competent authority may comply with the requirement set out in the first subparagraph in ***one of the following*** ways:

Amendment

The competent authority may comply with the requirement set out in the first subparagraph in ***various*** ways ***that facilitate economies of scale, such as:***

Justification

The ways of acquiring rolling stock should be conducive to economies of scale.

Amendment 53

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No. 1370/2007

Article 5 a – paragraph 2 – subparagraph 2 – point a

Text proposed by the Commission

(a) by acquiring itself the rolling stock used for the execution of the public service contract with a view to making it available to the selected public service operator at market price or as part of the public service contract pursuant to Article 4(1)(b), Article 6 and, if applicable, to the Annex,

Amendment

(a) by acquiring, itself, ***at market price*** the rolling stock used for the execution of the public service contract with a view to making it available to the selected public service operator at market price or as part of the public service contract pursuant to Article 4(1)(b), Article 6 and, if applicable, to the Annex,

Justification

The main concern is to ensure equal access and to remove rolling stock access barriers. In this context, it is important that these support measures are not taken into consideration into the award mechanism. The cost of the needed support measures applicable to one applicant shall not be an element of the choice of the competent authority when awarding a public service contract. Indeed there is a need to ensure full neutrality of these support measures in terms, for example, of call for tender. Whatever the bidders need as support measures, it shall

not be considered in the assessment of the bids and the choice of the competent authority. The competent authority should also be able to determine the viability of the support measures chosen before the execution of the new PSO contract. Market price should be the basis of this cost assessment in order to avoid any competition distortion.

Amendment 54

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No. 1370/2007

Article 5 a – paragraph 2 – subparagraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) by cooperating with neighbouring local authorities in order to create a larger pool of rolling stock.

Amendment 55

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No. 1370/2007

Article 5 a – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

In the cases referred to in points (b) and (c), the competent authority shall have the right to require the public service operator to transfer the rolling stock after the expiry of the public service contract to the new operator to whom a contract is awarded. The competent authority may oblige the new public transport operator to take the rolling stock over. The transfer shall be done at market rates.

3. In the cases referred to in points (b) and (c) *of the second subparagraph of paragraph 2*, the competent authority shall have the right to require the public service operator to transfer the rolling stock after the expiry of the public service contract to the new operator to whom a contract is awarded. The competent authority may oblige the new public transport operator to take the rolling stock over. The transfer shall be done at market rates.

Amendment 56

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 1370/2007

Article 5 a – paragraph 3

Text proposed by the Commission

3. If the rolling stock is transferred to a new public transport operator the competent authority shall make available in the tender documents detailed information about the cost of maintenance of the rolling stock and about its physical condition.

Amendment

4. If the rolling stock is transferred to a new public transport operator the competent authority shall make available in the tender documents detailed information about the cost of maintenance of the rolling stock and about its physical condition.

Amendment 57

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 1370/2007

Article 5 a – paragraph 4

Text proposed by the Commission

4. By [18 months after the date of entry into force of this Regulation] the Commission shall adopt measures setting out the details of the procedure to be followed for the application of paragraphs 2 and 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 9a(2).

Amendment

deleted

Justification

Regulation (EC) No 1370/2007 constitutes a lex specialis as regards State aid, allowing public passenger transport services to be treated as an exception to the general State aid rules. Implementation of the arrangement proposed in Amendments 21 to 23 does not require prior implementing acts. There is therefore no need to refer measures to the Commission.

Amendment 58

Proposal for a regulation

Article 1 – point 7 – point a
Regulation (EC) 1370/2007
Article 7 – paragraph 1

Text proposed by the Commission

"1. Each competent authority shall make public once a year an aggregated report on the public service obligations for which it is responsible, the starting date and duration of the public service contracts, the selected public service operators and the compensation payments and exclusive rights granted to the said public service operators by way of reimbursement. The report shall distinguish between bus transport and rail transport, allow the performance, quality and financing of the public transport network to be monitored and assessed and, if appropriate, provide information on the nature and extent of any exclusive rights granted. Member States shall facilitate central access to these reports, for instance through a common web portal."

Amendment

"1. Each competent authority shall make public once a year an aggregated report on the public service obligations for which it is responsible, the starting date and duration of the public service contracts, the selected public service operators and the compensation payments and exclusive rights granted to the said public service operators by way of reimbursement. ***The report shall assess performance in terms of compliance and specify all transport service indicators, including punctuality, reliability, cleanness, user satisfaction as measured by public opinion polls, and the minimum capacity utilisation rate.*** The report shall distinguish between bus transport and rail transport, allow the performance, quality and financing of the public transport network to be monitored and assessed and, if appropriate, provide information on the nature and extent of any exclusive rights granted. Member States shall facilitate central access to these reports, for instance through a common web portal. ***The Commission shall prepare a summary of these reports and submit it, in all working languages, to the European Parliament and the Council.***";

Amendment 59

Proposal for a regulation
Article 1 – point 8 – point a
Regulation (EC) No 1370/2007
Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

"2. Without prejudice to paragraph 3, the award of public service contracts ***by rail***

Amendment

"2. Without prejudice to paragraph 3, the award of public service contracts

with the exception of other track-based modes such as metro *or* tramways shall comply with Article 5(3) *as from* 3 December 2019. *All public* service contracts *by other track-based modes and by road must have been* awarded in compliance with Article 5(3) *by 3 December 2019 at the latest*. During the transitional *period running until 3 December 2019*, Member States shall take measures to gradually comply with Article 5(3) in order to avoid serious structural problems in particular relating to transport capacity.";

concerning transport by road and other track-based modes such as metro, tramways *or tram-train systems* shall comply with Article 5 from 3 December 2019. *Public* service contracts *concerning public passenger transport by rail shall be* awarded *from 3 December 2022* in compliance with Article 5. *By 3 December 2022 the competent authorities responsible for establishing the public transport plans referred to in Article 2a shall be entrusted with all powers necessary for awarding public service contracts in accordance with Article 5*. During the transitional *periods*, Member States shall take measures to gradually comply with Article 5(3) in order to avoid serious structural problems in particular relating to transport capacity.";

Amendment 60

Proposal for a regulation

Article 1 – point 8 – point a

Regulation (EC) No 1370/2007

Article 8 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

"Within six months after the first half of the transitional periods, Member States shall provide the Commission with a progress report, highlighting the implementation of any gradual award of public service contracts that comply with Article 5. On the basis of the Member States' progress reports, the Commission may propose appropriate measures addressed to Member States."

Justification

In view of the number of contracts to be put out to tender in the rail sector, sufficient time must be allowed in order to avert a plethora of simultaneous tendering procedures and ensure

that the operators concerned will all be in a position to respond.

Amendment 61

Proposal for a regulation

Article 1 - point 8 – point b

Regulation (EC) No. 1370/2007

Article 8 – paragraph 2 a

Text proposed by the Commission

2a. Public service contracts for public passenger transport by rail directly awarded between 1 January 2013 and 2 December 2019 may continue until their expiry date. However they shall, in any event, not continue after 31 December **2022**.

Amendment

"2a. Public service contracts for public passenger transport by rail that do ***not comply with Article 5***, directly awarded ***before 3 December 2022***, shall in any event ***expire at the latest on ... ****";

**** OJ: please insert the date 10 years after the entry into force of this Regulation (i.e. amending act - 2013/0028(COD))***

Amendment 62

Proposal for a regulation

Article 2

Text proposed by the Commission

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Amendment

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*. ***It shall be made available in the form of a text consolidated with Regulation (EC) No 1370/2007, which it shall amend within three months of its publication.***

EXPLANATORY STATEMENT

1. Introduction

In terms of passenger kilometers, passenger traffic by rail accounts for approximately 7% of total passenger traffic in the European Union¹. This total should be increased. Not only can investment in these sustainable modes of transport benefit the environment and the economy, but it also promotes growth and employment. It is imperative to increase efficiency in rail passenger transport. The target set by Parliament in its resolution on the White Paper to increase the number of public transport users can only be achieved if rail passenger transport also becomes more efficient across Europe.

The market for cross-border rail passenger transport services has been open since 1 January 2010. The market for domestic passenger transport services, however, is still largely closed in most Member States. Like other passenger transport services – bus, tramway and metro – public rail passenger transport cannot generally be provided at present on a commercial basis. These services are instead provided on the basis of public service contracts. Compensation for public service obligations is a component of those service contracts.

The European legal framework for this is provided by the Regulation currently in force (1370/2007). A core element of this regulation is the competitive award of public service contracts – although this is restricted by various forms of direct award for those contracts. These include, above all, the freedom given to competent authorities under Article 5(2) to decide for themselves whether they offer transport services using their own companies (with their ‘internal operators’), or whether they put them out to tender. This possibility of awarding a contract directly is subject to a reciprocity clause under which the internal operator may not take part in competitive tendering procedures organised outside the territory of the competent local authority.

In the legislative procedure for the current regulation, the Council pushed through the general possibility for public service contracts concerning passenger transport by rail to be awarded directly (Article 5(6)). About 90% of all rail journeys in the EU are subject to public service contracts - mainly on urban and regional trains. A majority of these service contracts continue to be awarded directly to the established operators.

Parallel to the developments in urban and regional transport, three ‘railway packages’ have been adopted over the past 10 years, with the aim of gradually opening up markets and increasing the competitiveness of rail transport. Parliament recently called for a Commission assessment of the situation in the field of national rail passenger transport in the context of Directive 2012/34/EU, under which the Commission was supposed to submit a report by 31 December 2012 that would also look into the implementation of Regulation (EC) No 1370/2007 and, where appropriate, the basis for further legislative measures on opening up the domestic market for rail passenger traffic.

¹ Bus: 8.9%; tramway and metro: 1.6%; cars: 82.5 %.

2. The Commission proposal

In its proposal, the Commission focuses primarily on rail passenger traffic. Despite positive developments in some Member States, this needs to be made more efficient in terms of passenger numbers, quality of services, infrastructure and ticketing. In many Member States the costs to the State are still too high compared to the quality of service offered, and market entry barriers for newcomers often remain insurmountable.

The Commission considers that these problems can be solved above all with stronger competitive tendering, which is embedded within the general framework of the 4th railway package. The key element of the Commission proposal is therefore to remove the generalised direct award option for rail passenger transport in Article 5(6) of current Regulation 1370/2007/EU. This is accompanied by proposals on access to rolling stock.

The Commission proposal is not, however, restricted to rail transport; rather, it also has an impact on other modes of transport. It provides for a new Article 2a on public transport plans and public service obligations with detailed requirements which the competent authorities must draw up for all relevant transport modes. The Commission also proposes adjusting the transitional periods in Article 8, which could have an impact on the award procedures for bus, tramway and metro services.

3. The rapporteur's position

3.1 General aspects of competition

In principle, the rapporteur backs the Commission proposal for more competition on the railways. However, competition should not be an end in itself; rather, it should be a means of increasing the quality, volume and efficiency of passenger transport services. Structures which are already efficient should be maintained; they should not be made less efficient by the new regulation.

Adjustments to complex systems such as rail passenger services need sufficient time in order to be carried out successfully. For that reason, the time limits proposed by the Commission - 2019 and, for expiry of existing contracts, until 2022 - seem too short.

The competent authorities, in particular, need more time to prepare for competitive tendering. While supporting, as proposed by the Commission, the ending of across-the-board direct awards in respect of rail passenger transport (Article 5(6)), the rapporteur would argue for a more realistic time limit.

3.2. Direct awards and competitive tendering

As regards direct awards under Article 5(4), the rapporteur has put forward an amendment to the threshold for train-km in order to make direct-award arrangements for very low-volume contracts for rail passenger transport services more realistic.

Because of the impact of the choice of award procedure, competent authorities awarding contracts directly should be required to substantiate their choices, and publish that substantiation, so that, in advance, other interested operators can examine the grounds and/or voice objections.

In addition, the principle of reciprocity should apply to firms from third countries, too, which should not be able to take part in tendering procedures until they have opened up their own markets to EU firms.

3.3 Key role of the competent authority

In the rapporteur's view, the competent authority plays a central role. In line with the subsidiarity principle, it should be responsible for establishing an urban transport plan and for an appraisal of the services required within public passenger transport. The same applies to defining public service obligations. Competent authorities are best placed to assess what public service obligations are needed, locally, for what routes there should be open access, or where open access should be restricted by means of a public service contract. The very issue of how the concept of open access and public service contracts relate to each other is highly sensitive. Where the open-access principle is interpreted too liberally, there is always a risk of cherry picking by private providers (at the public sector's expense).

This issue - centring on the concept of the economic equilibrium of a service contract - must be coherently addressed not only in this report, but also in the report on the establishment of a Single European Railway Area.

For these decisions, competent authorities must be able to have all relevant information at their disposal.

According to the Commission proposal, competent authorities are to be required to establish transport plans. The rapporteur supports that proposal, but takes the view that, as regards the provisions to be laid down, the regulation should give competent authorities sufficient powers of discretion. In addition, they should draw up certain criteria regarding quality-related and social standards and incorporate them into tendering documents too. Greater emphasis should furthermore be placed on the concept of sustainability in those plans.

3.4. Volume of public service contracts for passenger transport by rail

The Commission is proposing that the maximum volume of a public service contract should be either 10 million train-km or one third of the total transport volume, whichever value is higher. The rapporteur takes the view that, in the small EU Member States in particular, dividing the volume into three would be imposed without increasing efficiency.

3.5 Potential impact for bus, tramway and metro services

Application of Regulation 1370/2007 was to be phased in by 2019. The modified transitional periods now being proposed by the Commission, in Article 8(2), would impact not only on passenger transport by rail; at the very least, the Commission's very misleading wording risks nullifying key provisions, in particular on direct awards to 'internal operators'. In the rapporteur's view, the compromise arrangements laboriously negotiated in the seven-year legislative procedure for the current regulation should be left intact.

3.6 Other amendments

The rapporteur is also proposing technical amendments: firstly, with a view to clear definitions (e.g. a clear definition of 'public rail passenger transport'; and, secondly, with a view to producing a more comprehensible, slimmed-down text.

20.11.2013

OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

for the Committee on Transport and Tourism

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail
(COM(2013)0028 – C7-0024/2013 – 2013/0028(COD))

Rapporteur: Frédéric Daerden

SHORT JUSTIFICATION

The various liberalisations of services sectors which have been carried out by the European Union in recent decades, including in the railway sector, have served to implement Article 26 of the Treaty on the Functioning of the European Union and are therefore part and parcel of its project.

This objective of establishing a common market must not be an end in itself but should rather be geared to reducing the cost of services to consumers while maintaining a high standard of service accessible to all.

Over the years, the various measures to liberalise sectors in which services have historically been provided by public operators through national operating monopolies do not seem to have achieved this dual objective.

If only in the rail transport sector, examples of dissatisfaction exist:

- In the case of international passenger transport, which has been open to competition since 2010, the increase in competition has not significantly reduced costs and has led to the closure of old cross-border lines which were not operating in accordance with the high-speed model. The sector has also not grown as anticipated: its market shares have increasingly had to be gained intermodally rather than intramodally.
- In the case of national passenger transport in Britain – the Member State which is most advanced in terms of liberalisation legislation – the EESC stresses the dissatisfaction felt by users in Britain in various respects and the recurrent need to involve the State in the integration of the sector (fares, distribution, timetables, etc.).

- In the case of national passenger transport in the Union as a whole, there have been no fewer than 15 infringement procedures on account of inadequate transposition, bearing witness to the excessive pace of this liberalisation, which, in order to contribute to the realisation of the European project, has to be carried out without prejudice to the national models which have afforded the public a high-quality model for several decades.

In view of these facts, the rapporteur does not consider that any need for further liberalisation of rail passenger transport has been demonstrated, and he has sought, by means of his amendments, to reduce the risk of an adverse impact on members of the public and particularly workers in the industry, focusing on several aspects:

- Providing for governance which is as integrated as possible: while the strict separation of infrastructure managers from transport service operators is based on concerns relating to competition, the fears which it arouses among organisations representing users, trade unions in the industry or ‘historical’ operators suggest to the rapporteur that a black-and-white approach is undesirable. It will most likely entail less mutualisation of resources for tangible investment and greater bureaucracy, which will have a disastrous impact on the quality of service and users’ safety. The rapporteur has therefore opted to give the national regulatory body the greatest possible freedom in this regard, in accordance with the judgment of the Court of Justice of 28 February 2013.
- The greatest possible freedom for Member States to choose between an invitation to tender and direct award of public service concessions by substantially raising ceilings.
- The incorporation into national plans for sustainable public transport, in its social and environmental aspects, of rules to protect users, workers and the environment, thus facilitating the inclusion in invitations to tender of these qualitative, social and environmental criteria.
- Increased protection for workers by means of ample scope for transfers of staff to undertakings which have newly acquired the concession to provide a public service; by means of increased social dialogue in structures; by clarifying the labour law applicable to train crews, particularly by means of certification of staff; by calling on Member States to establish social responsibility on the basis of solidarity between a tenderer and its subcontractors to prevent social dumping.
- The necessary reciprocity in the opening-up of markets between Member States.
- An ample transition period for transposition by the Member States (until 2029) to allow the EU’s political decision-makers time for consideration and analysis before any further liberalisation.

AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Rail transport plays a major role both socially and environmentally and in terms of mobility planning and can significantly increase its overall share of European passenger transport. In this regard, investment in research as well as in the infrastructure and rolling stock can make a significant contribution to new growth and thus boost employment directly in the railway sector and indirectly by increasing mobility of employees of other sectors. Rail transport can develop into an important modern branch of EU industry, provided that the Member States agree on greater cooperation.

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

Amendment

(2) The Union market for international passenger transport services by rail has been opened to competition since 2010. In addition, some Member States have opened their domestic passenger services to competition, by introducing open access rights or tendering for public service contracts or both.

(2) The Union market for international passenger transport services by rail has been opened to competition since 2010. In addition, some Member States have opened their domestic passenger services to competition, by introducing open access rights or tendering for public service contracts or both, ***while respecting the Protocol (No 26) on services of general interest ("Protocol No 26"), annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the***

Amendment 3

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) When competent authorities organise their public passenger transport services they need to ensure that public service obligations and the geographical scope of public service contracts are appropriate, necessary and proportionate to achieve the objectives of the public passenger transport policy in their territory. This policy should be set out in public transport plans leaving scope for *market based transport solutions*. The process of defining public transport *plans* and public service obligations should be made transparent to relevant stakeholders including potential market entrants.

Amendment

(4) When competent authorities organise their public passenger transport services they need to ensure that public service obligations and the geographical scope of public service contracts are appropriate, necessary and proportionate to achieve the objectives of the public passenger transport policy in their territory, ***and that the social objectives of the TEU, the Charter of Fundamental Rights of the European Union, the Protocol No 26 as well as the United Nations Convention on the rights of people with disabilities are respected.*** This policy should be set out in ***all plans for sustainable*** public transport leaving scope for ***transport solutions*** based ***on the needs of users, including families, elderly and disabled people.*** The process of defining ***such multimodal*** public transport plans and public service obligations should ***integrate an economic, social and ecological dimension and*** be made transparent to relevant stakeholders including potential market entrants.

Amendment 4

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) To ensure sound financing to meet the objectives of public transport plans, competent authorities need to design public

Amendment

(5) To ensure sound financing to meet the objectives of public transport plans, competent authorities need to design public

service obligations to attain public transport objectives in *a* cost-effective manner taking account of the compensation for the net financial effect of those obligations and they need to ensure long-term financial sustainability of public transport provided under public service contracts.

service obligations to attain public transport objectives in *both high-quality and* cost-effective manner taking account of the compensation for the net financial effect of those obligations and they need to ensure long-term financial sustainability of public transport provided under public service contracts.

Amendment 5

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Competitive tendering based on the lowest price principle leads to social dumping, often related to cheaper offers, thus saving at the expense of employees: lower wages, longer working hours, fewer personnel. To ensure that competitive tendering must not be at the expense of the efficiency and quality of the service or the working conditions of the employees, is not based on the lowest price but rather on quality criteria, and to take account of national specificities, the form of competitive tendering procedures need to include social criteria.

Amendment 6

Proposal for a regulation Recital 6

Text proposed by the Commission

Amendment

(6) It is particularly important that competent authorities comply with these criteria for public service obligations and the scope of public service contracts if the market for public passenger transport by

(6) It is particularly important that competent authorities comply with these criteria for public service obligations and the scope of public service contracts if the market for public passenger transport by

rail is to run smoothly, because open access transport operations need to be well coordinated with those under public service contract. For this reason, the independent rail regulatory body should ensure that this process is correctly applied and transparent.

rail is to run smoothly ***and shall meet the needs of its customers, while at the same time respecting the rights of employees in the sector***, because open access transport operations need to be well coordinated with those under public service contract. For this reason, the independent rail regulatory body should ensure that this process is correctly applied and transparent.

Amendment 7

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) Certain upper limits for the direct award of public service contracts need to be adapted for rail transport to the ***specific*** economic conditions under which tender procedures take place in this sector.

Amendment

(9) Certain upper limits for the direct award of public service contracts need to be adapted for rail transport to the ***social and territorial requirements of services of general interest and the*** economic conditions under which tender procedures take place in this sector.

Amendment 8

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The principle of reciprocity is an important means of counteracting the distortion of competition. This principle should apply not only to railway undertakings and their subsidiaries in the Member States, but also to undertakings from third countries that wish to participate in tendering procedures within the Union.

Amendment 9

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) The establishment of an Internal Market for passenger transport services by rail requires common rules on competitive tendering for public service contracts in this sector to be applied in a harmonised manner in all Member States.

Amendment

(10) The establishment of an Internal Market for passenger transport services by rail requires common rules ***which respect also the social objectives and the services of general interest obligations set out in the TEU and the TFEU***, on competitive tendering for public service contracts in this sector to be applied in a harmonised manner in all Member States – ***taking into account the specific circumstances of each country – to ensure a level-playing field between all potential bidders.***

Amendment 10

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) In view of creating framework conditions for enabling society to fully reap the benefits ***of effective opening of the market*** for domestic passenger transport services by rail it is important that Member States ensure an adequate level of social protection for the staff of public service operators.

Amendment

(11) In view of creating framework conditions for enabling ***all members of*** society to fully reap the benefits from ***a high-quality offer*** for domestic passenger transport services by rail ***that are in line with the social objectives set out in the TEU and the objectives regarding services of general interest as set out in the Protocol No 26***, it is important that Member States ensure ***in any case good working conditions and a high*** level of social protection for the staff of public service operators ***against social dumping on a national, regional or local level,***

respecting collective agreements in the sector. The adequate level should be guaranteed at the latest at the opening of the domestic railway market by national law and/or sector-wide collective agreements by setting social standards and requiring the transfer of staff for the relevant sector. By establishing national collective agreements for the rail sector, but also by ensuring that staff is taken over under contract award procedures, the competent authorities will enable a high-quality social framework to be put in place.

Amendment 11

Proposal for a regulation Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Where the conclusion of a public service contract may entail a change of public service operator, competent authorities should require the chosen public service operator to apply the provisions of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfer of undertakings, businesses or parts of undertakings or businesses. That Directive does not preclude Member States from safeguarding transfer conditions of employees' rights other than those covered by that Directive. Thereby, if appropriate, Member States shall take into account labour and social standards more favourable to the workers, established by national laws, regulations or administrative provisions or collective agreements or agreements concluded

between the social partners.

Amendment 12

Proposal for a regulation Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) In keeping with the principle of subsidiarity, competent authorities should establish social and qualitative criteria in order to maintain and raise quality standards for public service obligations, for instance with regard to minimal working conditions, passenger rights, the needs of persons with reduced mobility, environmental protection and the health and security of passengers and employees, as well as collective agreement obligations and other rules and agreements concerning workplaces and social protection at the place where the service is provided.

Amendment 13

Proposal for a regulation Recital 14

Text proposed by the Commission

Amendment

(14) Consistent with the internal logic of Regulation (EC) No 1370/2007, it should be made clear that the transitional period until 2 December 2019 refers only to the obligation to organise competitive tendering procedures for public service contracts.

(14) Consistent with the internal logic of Regulation (EC) No 1370/2007, it should be made clear that the transitional period until 2 December 2019 refers only to the obligation to organise competitive tendering procedures for public service contracts. ***That transitional period will allow Member States to ensure that tendering processes respect the social objectives, as well as social and territorial cohesion as set out in the TEU and the***

Amendment 14

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) Preparing railway undertakings for **mandatory** competitive tendering for public service contracts requires some extra time to allow effective and sustainable internal restructuring of companies to which such contracts were directly awarded in the past. Transitional measures are **therefore** necessary for contracts directly awarded between the date of entry into force of this Regulation and 3 December 2019.

Amendment

(15) Preparing railway undertakings for **optional** competitive tendering for public service contracts **and ensuring adequate level of social protection and good working conditions for the staff of public service operators in the concerned Member State** requires some extra time to allow effective and sustainable internal restructuring of companies to which such contracts were directly awarded in the past. Transitional measures are **in any case** necessary for contracts directly awarded between the date of entry into force of this Regulation and 3 December 2019.

Amendment 15

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) Once opening of the market for domestic passenger transport services by rail is achieved, as competent authorities may need to take measures to ensure **a high** level of competition by limiting the number of contracts that it awards to one railway undertaking, adequate provisions should be provided for.

Amendment

(16) Once opening of the market for domestic passenger transport services by rail is achieved, as competent authorities may need to take measures to ensure **an adequate** level of competition by limiting the number of contracts that it awards to one railway undertaking, adequate provisions should be provided for.

Amendment 16

Proposal for a regulation

Article 1 – point 1 – point a

Regulation (EC) No 1370/2007

Article 2 – point c

Text proposed by the Commission

‘competent local authority’ means any competent authority whose geographical area of competence is not national and which covers the transport needs of an urban agglomeration or a rural district;

Amendment

‘competent local authority’ means any competent authority whose geographical area of competence is not national and which covers the transport needs of, **for example, a region**, an urban agglomeration or a rural district;

Justification

Public transport is often organised on the basis of regions and other administrative units in EU Member States. It is, therefore, necessary to broaden the definition.

Amendment 17

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – title

Text proposed by the Commission

Public transport plans and public service obligations

Amendment

Socially, environmentally and economically sustainable public transport plans and public service obligations

Justification

The concept of sustainability should be emphasised in all aspects of these plans.

Amendment 18

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 1 – point b

Text proposed by the Commission

(b) basic requirements to be fulfilled by public transport offer such as accessibility, territorial connectivity, security, modal and intermodal interconnections at main connecting hubs, offer characteristics such as times of operation, frequency of services and minimum degree of capacity utilisation;

Amendment

(b) basic requirements to be fulfilled by public transport offer such as ***availability***, accessibility, ***affordability***, territorial connectivity, security, modal and intermodal interconnections at main connecting hubs, offer characteristics such as times of operation, frequency of services and minimum degree of capacity utilisation;

Amendment 19

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 1 – point c

Text proposed by the Commission

(c) quality standards related to items such as equipment features of stops and of rolling stock, punctuality and reliability, cleanliness, customer service and information, complaint handling and redress, monitoring of service quality;

Amendment

(c) quality standards related to items such as equipment features of stops and of rolling stock, punctuality and reliability, cleanliness, customer service ***including services for children, families and elderly people, support*** and information, complaint handling and redress, monitoring of service quality ***and all necessary services to ensure the accessibility in line with the UN Convention for people with disabilities***;

Amendment 20

Proposal for a regulation

Article 1 – point 2

Regulation (EC) 1370/2007

Article 2 a – paragraph 1 – point d a to d d (new)

Present text

Amendment

(da) applicable rules regarding passenger rights;

(db) applicable rules regarding social and employment protection;

(dc) standards of health and safety at the work place;

(dd) applicable rules regarding environmental protection;

Amendment 21

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 1 – point e

Text proposed by the Commission

(e) operational requirements such as transport of bicycles, traffic management, contingency plan in case of disturbances.

Amendment

(e) operational requirements such as transport of bicycles, ***prams, wheel chairs, luggage as well as*** traffic management, contingency plan in case of disturbances.

Amendment 22

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 1 – subparagraph 2

Text proposed by the Commission

In *establishing public transport plans*, competent authorities *shall have regard in particular to applicable rules regarding passenger rights, social, employment and environmental protection.*

Amendment

In order to ensure transparent and comparable terms of competition between operators and to avert the risk of social dumping, competent authorities may impose specific social and service quality standards.

Justification

These aspects of the original paragraph are moved under the relevant points of Article 2(a) new to give them greater importance. The new text is needed to guarantee authority in this regard.

Amendment 23

Proposal for a regulation

Article 1 – point 2

Regulation (EC) 1370/2007

Article 2 a – paragraph 1 – subparagraph 3

Text proposed by the Commission

The competent authorities shall adopt the public transport plans after consultation of relevant stakeholders and publish them. For the purpose of this Regulation, relevant stakeholders to be taken into consideration are at least transport operators, infrastructure managers *if appropriate*, and *representative* passenger and employee organisations.

Amendment

The competent authorities shall adopt the public transport plans after consultation of relevant stakeholders and publish them. For the purpose of this Regulation, relevant stakeholders to be taken into consideration are at least transport operators, infrastructure managers and passenger and employee organisations *and organisations representing people with disabilities and elderly people.*

Amendment 24

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 3 – subparagraph 2

Text proposed by the Commission

The assessment of appropriateness referred to in point (b) shall take into account whether a public intervention in the provision of passenger transport is a suitable means of achieving the objectives of the public transport plans.

Amendment

deleted

Justification

The explanation regarding appropriateness was already included in Article 2a(3)(b), so it can

be deleted here.

Amendment 25

Proposal for a regulation

Article 1 – point 2

Regulation (EC) 1370/2007

Article 2 a – paragraph 4 – point a

Text proposed by the Commission

(a) achieve the objectives of the public transport plan in the most ***cost-effective*** manner;

Amendment

(a) achieve the objectives of the public transport plan in the most ***efficient possible*** manner ***with a high level of quality, including the accessibility in social und territorial terms;***

Amendment 26

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 4 – point b

Text proposed by the Commission

(b) financially sustain the provision of public passenger transport in accordance to the requirements laid down in the public transport plan in the long term.

Amendment

(b) financially sustain the provision of public passenger transport in accordance to the requirements laid down in the public transport plan in the long term ***and in an integrated approach.***

Amendment 27

Proposal for a regulation

Article 1 – point 2

Regulation (EC) 1370/2007

Article 2 a – paragraph 5 – subparagraph 2

Text proposed by the Commission

The competent authority shall in an

Amendment

The competent authority shall in an

appropriate manner consult relevant stakeholders such as a minimum, transport operators, infrastructure managers *if appropriate* and *representative* passenger and employee organisations on these specifications and take their positions into consideration.

appropriate manner consult relevant stakeholders such as a minimum, transport operators, infrastructure managers and passenger and employee organisations *and organisations representing people with disabilities and elderly people* on these specifications and take their positions into consideration.

Amendment 28

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 6 – point b

Text proposed by the Commission

Amendment

(b) the maximum annual volume of a public service contract in terms of train-km shall be the higher value of either 10 million train-km or one third of the total national public rail passenger transport volume under public service contract.

deleted

Justification

These figures should take into account the differences of the Member States.

Amendment 29

Proposal for a regulation

Article 1 – point 3 – point b

Regulation (EC) No 1370/2007

Article 4 – paragraph 1 – point b – last sentence

Text proposed by the Commission

Amendment

In the case of public service contracts not awarded according to Article 5(3), these parameters shall be determined in such a way that no compensation payment may exceed the amount required to cover the net financial effect on costs incurred and

In the case of public service contracts not awarded according to Article 5(3), these parameters shall be determined in such a way that no compensation payment may exceed the amount required to cover the net financial effect on costs incurred and

revenues generated in discharging the public service obligations, taking account of revenue relating thereto kept by the public service operator and a reasonable profit;

revenues generated in discharging the public service obligations, taking account of revenue relating thereto kept by the public service operator and a reasonable profit **and the amount necessary for investments needed to improve the availability, accessibility and the quality of the passenger services;**

Amendment 30

Proposal for a regulation

Article 1 – point 3 – point b a (new)

Regulation (EC) 1370/2007

Article 4 – paragraph 5

Present text

Amendment

(ba) Paragraph 5 is replaced by the following:

"5. Without prejudice to national and Union law, including collective agreements between the social partners, competent authorities shall require the selected public service operator to grant staff previously taken on to provide services the rights to which they would have been entitled if there had been a transfer within the meaning of Directive 2001/23/EC. That Directive does not preclude Member States from safeguarding transfer conditions of employees' rights other than those covered that Directive 2001/23/EC. Member States shall be required to take into account labour and social standards more favourable to the workers, established by national laws, regulations or administrative provisions or collective agreements or agreements concluded between the social partners.

Where competent authorities require public service operators to comply with certain social standards, tender documents and public service contracts

shall list the staff concerned and give transparent details of their contractual rights and the conditions under which employees are deemed to be linked to the services."

Amendment 31

Proposal for a regulation
Article 1 – point 3 – point c
Regulation (EC) 1370/2007
Article 4 – paragraph 6

Text proposed by the Commission

Where competent authorities, *in accordance with* national law, *require public service operators to comply with certain* quality *and* social standards *or establish* social and qualitative criteria, these standards and criteria *shall be included* in the tender documents and in the public service contracts.

Amendment

The competent authorities *shall, without prejudice to* national law *and Union law, including collective agreements concluded between social partners, lay down the* quality, social *and environmental* standards *applicable, determine appropriate* social and qualitative criteria *and include* these standards and criteria in the tender documents and in the public service contracts, *regardless of the award procedure, unless at a national, regional or local level a law, a regulation or a binding sector-wide collective agreement, including binding social standards and compulsory transfer of staff in case of change of operator, exists for the staff concerned.*

Amendment 32

Proposal for a regulation
Article 1 – point 4 – point -a (new)
Regulation (EC) 1370/2007
Article 5 – paragraph 3 a (new)

Present text

Amendment

(-a) The following paragraph is inserted:

“3a. The competent authority may exclude from the competitive tendering procedures operators or undertakings where the control belongs directly or indirectly to a person or persons from a third country or third countries if such countries have no provisions which allow for competitive tendering bids for companies from the Member States or do not provide effective access to their markets. For the purposes of this paragraph, control shall be constituted by rights, contracts or any other means which, either separately or in combination and having regards to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:

(a) ownership or the right to use all or part of the assets of an undertaking;

(b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking.”

Amendment 33

Proposal for a regulation

Article 1 – point 4 – point a

Regulation (EC) No 1370/2007

Article 5 – paragraph 4

Text proposed by the Commission

Amendment

(a) Paragraph 4 is replaced by the following:

deleted

“4. Unless prohibited by national law, the competent authorities may decide to award public service contracts directly:

(a) where their average annual value is estimated at: less than EUR 1 000 000 or less than EUR 5 000 000 in the case of a public service contract including public transport by rail or,

(b) where they concern the annual provision of less than 300 000 kilometres of public passenger transport services or less than 150 000 kilometres in the case of a public service contract including public transport by rail.

In the case of a public service contract directly awarded to a small or medium-sized enterprise operating not more than 23 road vehicles, these thresholds may be increased to either an average annual value estimated at less than EUR 2 000 000 or to an annual provision of less than 600 000 kilometres of public passenger transport services.’’

Justification

The rapporteur suggests to reject the Commission’s proposal and to revert to the original paragraph 4 of article 5 (2012/34/EU). States must be able to choose according to their particular needs - which differ from Member State to Member State - which instrument is more appropriate. The European Commission’s abolishment of choice demonstrates a lack of trust and desire to manage sovereign Member States’ decisions, as already criticised for lacking respect of the subsidiarity principle by a number of national parliaments – and should therefore be rejected by the European Parliament.

Amendment 34

Proposal for a regulation

Article 1 – point 4 – point a

Regulation (EC) No 1370/2007

Article 5 – paragraph 4 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) on the basis of a detailed technical report drawn up no later than 24 months before the end of the current contract, sent to the independent national regulatory authority, and covering the following criteria:

– network complexity requiring a global multimodal approach owing to the density of the railway system in the geographic area concerned and the frequency of

services or owing to the railway system having technical specifications which differ considerably from traditional standards;

– an economic dimension which enables the viability of a public service contract to be justified by balancing profitable areas against non-profitable ones and/or productivity gains and operator performance improving in line with the competent authority's expectations;

– greater customer satisfaction with the current public service contract as set out in the annual report referred to in Article 7(1).

The independent national regulatory authority shall rule on the validity of the competent authority's request on receipt of this report. The opinion of the independent national regulatory authority shall be binding and immediately applicable.

Amendment 35

Proposal for a regulation

Article 1 – point 4 – point b

Regulation (EC) No 1370/2007

Article 5 – paragraph 6

Text proposed by the Commission

Amendment

(b) Paragraph 6 is replaced by the following:

deleted

"Competent authorities may decide that, in order to increase competition between railway undertakings, contracts for public passenger transport by rail covering parts of the same network or package of routes shall be awarded to different railway undertakings. To this end the competent authorities may decide before launching the tender procedure to limit the number of contracts to be awarded to the same

railway undertaking."

Justification

The proposal intends to delete Article 5(6) and replace it with this text, however it is important to keep the original Paragraph 6 and this new text can be added afterwards.

Amendment 36

Proposal for a regulation

Article 1 – point 4 – point b a (new)

Regulation (EC) No 1370/2007

Article 5 – paragraph 6 a (new)

Present text

Amendment

(ba) The following paragraph is inserted:

"6a. Competent authorities may decide that, in order to increase competition between railway undertakings, contracts for public passenger transport by rail covering parts of the same network or package of routes shall be awarded to different railway undertakings. To this end the competent authorities may decide before launching the tender procedure to limit the number of contracts to be awarded to the same railway undertaking. However, this may not have the effect of making the services less accessible to passengers, of creating or aggravating any barriers or of reducing the scope of the services."

Amendment 37

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 1370/2007

Article 5 a – paragraph 1

Text proposed by the Commission

Amendment

1. *Member States* shall in compliance with

1. *The competent authorities* shall in

State aid rules take the necessary measures to ensure effective and non-discriminatory access to suitable rolling stock for public passenger transport by rail for operators wishing to provide public passenger transport services by rail under public service contract.

compliance with State aid rules take the necessary measures to ensure effective and non-discriminatory access to suitable rolling stock for public passenger transport by rail for operators wishing to provide public passenger transport services by rail under public service contract.

Amendment 38

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 1370/2007

Article 5 a – paragraph 2 – subparagraph 3

Text proposed by the Commission

In the cases referred to in points (b) and (c), the competent authority shall have the right to require the public service operator to transfer the rolling stock after the expiry of the public service contract to the new operator to whom a contract is awarded. The competent authority may oblige the new public transport operator to take the rolling stock over. The transfer shall be done at market *rates*.

Amendment

In the cases referred to in points (b) and (c), the competent authority shall have the right to require the public service operator to transfer the rolling stock after the expiry of the public service contract to the new operator to whom a contract is awarded. The competent authority may oblige the new public transport operator to take the rolling stock over. The transfer shall be done at market *prices*.

Amendment 39

Proposal for a regulation

Article 1 – point 7 – point a

Regulation (EC) 1370/2007

Article 7 – paragraph 1

Text proposed by the Commission

"1. Each competent authority shall make public once a year an aggregated report on the public service obligations for which it is responsible, the starting date and duration of the public service contracts, the selected public service operators and the compensation payments and exclusive

Amendment

"1. Each competent authority shall make public once a year an aggregated report on the public service obligations for which it is responsible, the starting date and duration of the public service contracts, the selected public service operators and the compensation payments and exclusive

rights granted to the said public service operators by way of reimbursement. The report shall distinguish between bus transport and rail transport, allow the performance, quality and financing of the public transport network to be monitored and assessed and, if appropriate, provide information on the nature and extent of any exclusive rights granted. Member States shall facilitate central access to these reports, for instance through a common web portal."

rights granted to the said public service operators by way of reimbursement. ***The report shall assess performance in terms of compliance and specify all transport service indicators, including punctuality, reliability, cleanness, user satisfaction as measured by public opinion polls, and the minimum capacity utilisation rate.*** The report shall distinguish between bus transport and rail transport, allow the performance, quality and financing of the public transport network to be monitored and assessed and, if appropriate, provide information on the nature and extent of any exclusive rights granted. Member States shall facilitate central access to these reports, for instance through a common web portal. ***The Commission shall produce a summary of these reports and submit it, in all the working languages, to the European Parliament and the Council.***"

Amendment 40

Proposal for a regulation

Article 1 – point 8 – point a

Regulation (EC) No 1370/2007

Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

"2. Without prejudice to paragraph 3, the award of public service contracts by ***rail with the exception of*** other track-based modes such as metro or tramways shall comply with Article 5(3) as from 3 December 2019. ***All public*** service contracts ***by other track-based modes and by road must have been*** awarded in compliance with Article 5(3) ***by 3 December 2019 at the latest.*** During the transitional ***period running until 3 December 2019,*** Member States shall take measures to gradually comply with Article 5(3) in order to avoid serious structural problems in particular relating to transport

Amendment

Without prejudice to paragraph 3, the award of public service contracts ***for transport by road and*** other track-based modes such as metro or tramways shall comply with Article 5 as from 3 December 2019. ***Public*** service contracts ***concerning passenger transport by rail shall be*** awarded ***as from 3 December 2029*** in compliance with Article 5. During the transitional ***periods,*** Member States shall take measures to gradually comply with Article 5(3) in order to avoid serious structural problems in particular relating to transport capacity."

capacity."

Justification

Very few countries as yet make use of competitive tendering under Article 5(3) in the area of public passenger transport by rail, so it is necessary to extend the period to 2029.

Amendment 41

Proposal for a regulation

Article 1 – point 8 – point b

Regulation (EC) No 1370/2007

Article 8 – paragraph 2 a

Text proposed by the Commission

"2a. Public service contracts for public passenger transport by rail directly awarded ***between 1 January 2013 and 2 December 2019*** may continue until their expiry date. ***However they shall, in any event, not continue after 31 December 2022.***"

Amendment

"2a. Public service contracts for public passenger transport by rail directly awarded ***before 3 December 2029*** may continue until their expiry date."

Amendment 42

Proposal for a regulation

Article 2

Text proposed by the Commission

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

Amendment

This Regulation shall enter into force on the day following its publication in the Official Journal of the European Union. ***It shall be consolidated with the Regulation amended by it within three months of its entry into force.***

PROCEDURE

Title	Amendment of Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail		
References	COM(2013)0028 – C7-0024/2013 – 2013/0028(COD)		
Committee responsible Date announced in plenary	TRAN 7.2.2013		
Opinion by Date announced in plenary	EMPL 7.2.2013		
Rapporteur Date appointed	Frédéric Daerden 25.3.2013		
Discussed in committee	18.9.2013	17.10.2013	14.11.2013
Date adopted	18.11.2013		
Result of final vote	+: -: 0:	31 7 2	
Members present for the final vote	Regina Bastos, Edit Bauer, Jean-Luc Bennahmias, Phil Bennion, Pervenche Berès, Vilija Blinkevičiūtė, Philippe Boulland, David Casa, Alejandro Cercas, Ole Christensen, Minodora Cliveti, Marije Cornelissen, Frédéric Daerden, Karima Delli, Sari Essayah, Thomas Händel, Marian Harkin, Nadja Hirsch, Stephen Hughes, Ádám Kósa, Jean Lambert, Patrick Le Hyaric, Verónica Lope Fontagné, Thomas Mann, Elisabeth Morin-Chartier, Csaba Óry, Konstantinos Poupakis, Sylvana Rapti, Licia Ronzulli, Nicole Sinclaire, Gabriele Stauner, Andrea Zannoni, Inês Cristina Zuber		
Substitute(s) present for the final vote	Claudette Abela Baldacchino, Georges Bach, Jelko Kacin, Ria Oomen-Ruijten, Antigoni Papadopoulou, Evelyn Regner		
Substitute(s) under Rule 187(2) present for the final vote	Marita Ulvskog		

16.10.2013

OPINION OF THE COMMITTEE ON REGIONAL DEVELOPMENT

for the Committee on Transport and Tourism

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail
(COM(2013)0028 – C7-0024/2013 – 2013/0028(COD))

Rapporteur: Rosa Estaràs Ferragut

SHORT JUSTIFICATION

The main objective of the European Union's transport policy is to establish an internal market for transport contributing to a high degree of competitiveness and the harmonious, balanced and sustainable development of economic activities.

Competition between railway undertakings is still hampered by the protectionist behaviour of certain historical incumbent operators and the collusive management of rail infrastructure. New entrants to the market are discriminated against when attempting to access rail infrastructure and services, as these are often owned by the same incumbents who manage them.

Since 2000, the above-mentioned principles of competitiveness and harmonious, balanced and sustainable development of economic activities have been progressively translated into reality, not least through the adoption of three successive packages of EU legislation. However, the modal share of rail has remained modest, partly due to suitability issues for many short-distance urban journeys, but also because of obstacles to market entry which hamper competition and innovation.

In 2012, parts of this legislation were simplified, consolidated and further reinforced by Directive 2012/34/EU establishing a single European rail area, bolstering existing provisions on competition, regulatory oversight and the financial architecture of the rail sector.

An estimated 90 % of passenger services are covered by public service obligations, giving authorities plenty of scope to enter into public service contracts or make direct awards. The objective of mandatory competitive tendering for public service contracts is to intensify competitive pressure on domestic rail markets, in order to increase the quantity and improve the quality of passenger services.

The opening of domestic passenger rail markets to international competition constitutes a significant step towards the creation of an integrated European railway area. The fourth railway package expands on EU legislation currently in force as regards access to the rail market, and the Commission aims to remove barriers to fair competition.

AMENDMENTS

The Committee on Regional Development calls on the Committee on Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Over the past decade, the growth of passenger traffic by rail has been insufficient to increase its modal share in comparison to cars and aviation. The 6% modal share of passenger transport for rail in the European Union has remained fairly stable. Rail passenger services have not kept pace with *evolving needs* in terms of availability and quality.

Amendment

(1) Over the past decade, the growth of passenger traffic by rail has been insufficient to increase its modal share in comparison to cars and aviation. The 6% modal share of passenger transport for rail in the European Union has remained fairly stable. Rail passenger services have not kept pace with *the evolution of other modes of transport* in terms of availability, *price* and quality.

Amendment 2

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) To *ensure sound financing to* meet the objectives of public transport plans, competent authorities need to design public service obligations *to attain public transport objectives in a cost-effective manner* taking account of the compensation for the net financial effect of those obligations and they need to ensure long-term financial sustainability of public

Amendment

(5) To meet the objectives of public transport plans *in an efficient manner*, competent authorities need to design public service obligations taking account of the compensation for the net financial effect of those obligations and they need to ensure long-term financial sustainability of public transport provided under public service

transport provided under public service contracts.

contracts.

Justification

Rewording of the text to make it easier to understand.

Amendment 3

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) To facilitate the preparation of tenders, and hence enhance competition competent authorities need to ensure that all public service operators interested in making such a submission receive certain information on the transport services and infrastructure covered by the public service contract.

Amendment

(8) To facilitate the preparation of tenders, and hence enhance competition competent authorities need to ensure that all public service operators interested in making such a submission receive certain information on the transport services and infrastructure covered by the public service contract ***to the extent that they are not placed at a disadvantage with regard to other competitors by the contracting authority.***

Amendment 4

Proposal for a regulation

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The principle of reciprocity is an important means of counteracting distortion of competition; this principle should apply to companies from third countries that wish to participate in procurement procedures within the Union.

Justification

Non-EU countries should not be given the opportunity to participate in tendering procedures in EU Member States until they have opened up their own markets to EU Member States.

Amendment 5

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) Where the market does not ensure it under suitable economic and non-discriminatory conditions, public service operators' access to rail rolling stock ***needs to be facilitated by competent authorities through adequate and effective measures.***

Amendment

(12) Where the market does not ensure it under suitable economic and non-discriminatory conditions, ***the competent authorities should facilitate*** public service operators' access to rail rolling stock. ***However, in such matters they shall proceed in such a way as not to favour one operator at the expense of others.***

Amendment 6

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) Preparing railway undertakings for ***mandatory*** competitive tendering for public service contracts requires some extra time to allow effective and sustainable internal restructuring of companies to which such contracts were directly awarded in the past. Transitional measures are therefore necessary for contracts directly awarded between the date of entry into force of this Regulation and 3 December 2019.

Amendment

(15) Preparing railway undertakings for competitive tendering for public service contracts requires some extra time to allow effective and sustainable internal restructuring of companies to which such contracts were directly awarded in the past. Transitional measures are therefore necessary for contracts directly awarded between the date of entry into force of this Regulation and 3 December 2019.

Amendment 7

Proposal for a regulation

Recital 18

Text proposed by the Commission

Amendment

(18) In the context of amendments to the Regulation (EC) No 994/98 (Enabling Regulation), the Commission proposed also an amendment of Regulation (EC) No 1370/2007 (COM(2012) 730/3). In order to harmonize the approach to block exemption regulations in the field of State aid and, in accordance with the procedures foreseen in Articles 108(4) and 109 of the Treaty, aid for the coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service as referred to in Article 93 of the Treaty should be brought under the scope of the Enabling Regulation.

deleted

Justification

If the principle of exemption from the obligation to notify compensation were to be brought under the scope of a different piece of legislation, this would alter the whole logical framework of the regulation on public service obligations and entail a major risk of legal uncertainty for public transport services.

Amendment 8

Proposal for a regulation

Article 1 – paragraph 1 – point a

Regulation 1370/2007/EC

Article 2 – point c

Text proposed by the Commission

Amendment

(c) "(c) "competent local authority" means any competent authority whose geographical area of competence **is not national and** which covers the transport needs of an urban agglomeration or a rural district;"

(c) "(c) "competent local authority" means any competent authority whose geographical area of competence **does not comprise the whole territory of a Member State or** which covers the transport needs of **a region**, an urban agglomeration or a rural district, **including at cross-border level**;"

Justification

The definition must be more clearly worded in order to take account of the emergence of transport authorities with cross-border responsibilities. It also needs to be clearly stated that the scope of the regulation also covers regions.

Amendment 9

Proposal for a regulation

Article 1 – paragraph 1 – point b

Regulation 1370/2007/EC

Article 2 - point e

Text proposed by the Commission

"The scope of public service obligations shall **exclude** all public transport services **that go beyond of what is necessary to reap** local, regional or sub-national network effects.

Amendment

"The scope of public service obligations shall **include** all public transport services **which create** local, regional or sub-national network effects; **such network effects may arise from the merger of profitable and unprofitable routes.**"

Justification

If a regional rail route breaks even or makes a profit, it must be possible under a public service contract for it to be merged with loss-making routes, so that the profits of the former may contribute to funding the latter, and in order, where necessary, to optimise technical resources needed for operational purposes.

Amendment 10

Proposal for a regulation

Article 1 – paragraph 2

Regulation 1370/2007/EC

Article 2 a (new) – paragraph 1 – introductory wording

Text proposed by the Commission

1. Competent authorities shall establish and regularly update public passenger transport plans covering all relevant transport modes for the territory for which they are responsible. These public transport plans shall define the objectives of public

Amendment

1. Competent authorities shall establish and regularly update **multiannual** public passenger transport plans covering all relevant transport modes for the territory for which they are responsible. These public transport plans shall define the

transport policy and the means to implement them covering all relevant transport modes for the territory for which they are responsible. They shall at least include:

objectives of public transport policy and the means to implement them covering all relevant transport modes for the territory for which they are responsible. They shall at least include:

Amendment 11

Proposal for a regulation

Article 1 – paragraph 2

Regulation 1370/2007/EC

Article 2 a – paragraph 1 – point b

Text proposed by the Commission

(b) basic requirements to be fulfilled by public transport offer such as accessibility, territorial connectivity, security, modal and intermodal interconnections at main connecting hubs, offer characteristics such as *times of operation*, frequency of services *and minimum degree of capacity utilisation*;

Amendment

(b) basic requirements to be fulfilled by public transport offer such as accessibility, territorial connectivity, security, modal and intermodal interconnections at main connecting hubs, offer characteristics such as *timetabling principles and* frequency of services;

Amendment 12

Proposal for a regulation

Article 1 – paragraph 2

Regulation 1370/2007/EC

Article 2 a – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) the requirements of social and territorial cohesion;

Amendment 13

Proposal for a regulation

Article 1 – paragraph 2

Regulation 1370/2007/EC

Article 2 a – paragraph 1 – subparagraph 2

Text proposed by the Commission

In establishing public transport plans, competent authorities shall have regard in particular to applicable rules regarding passenger rights, social, employment and environmental protection.

Amendment

In establishing public transport plans, competent authorities shall have regard in particular to applicable rules regarding passenger rights, social, employment and environmental protection.

The public transport plans shall be submitted to the regulatory body for its opinion one month before their publication.

The competent authorities shall coordinate the information in their respective transport plans and shall set up common transport plans for regional cross-border services;

Justification

Intermodality and cross-border coordination must be promoted.

Amendment 14

Proposal for a regulation

Article 1 – paragraph 2

Regulation 1370/2007/EC

Article 2 a (new) – paragraph 1 – subparagraph 3

Text proposed by the Commission

The competent authorities shall adopt the public transport plans after consultation of relevant stakeholders and publish them. For the purpose of this Regulation, relevant stakeholders to be taken into consideration are at least transport operators, infrastructure managers if appropriate, and representative passenger and employee organisations.

Amendment

The competent authorities shall adopt the public transport plans after consultation of relevant stakeholders and publish them. For the purpose of this Regulation, relevant stakeholders to be taken into consideration are at least transport operators, infrastructure managers if appropriate, and representative passenger and employee organisations.

Existing public service providers shall be required to provide the competent authorities on request with the necessary information within one month. This shall also apply to the authorities of a

neighbouring Member State.

Justification

For public transport, precise data are needed concerning the development of the markets for the individual modes of transport. Market participants have access to the most important sources of information and must share this information with the competent authority.

Amendment 15

Proposal for a regulation

Article 1 – paragraph 2

Regulation (EC) No 1370/2007

Article 2 a – paragraph 4 – point a

Text proposed by the Commission

(a) achieve the objectives of the public transport plan in *the most cost-effective* manner;

Amendment

(a) achieve the objectives of the public transport plan in *an efficient* manner;

Justification

The term ‘rentable’ (profitable) as used in the Spanish version of the Commission proposal is not appropriate as, by definition, ‘profitability’ is not possible as regards contracts derived from public service obligations. Broader criteria should therefore be used to assess whether the objectives of the public transport plan have been met.

Amendment 16

Proposal for a regulation

Article 1 – paragraph 3 – point d

Regulation 1370/2007/EC

Article 4 – paragraph 8

Text proposed by the Commission

8. Competent authorities shall make available to all interested parties relevant information for the preparation of an offer under a competitive tender procedure. This shall include information on passenger demand, fares, costs and revenues related to the public passenger transport covered by the tender and details of the

Amendment

8. Competent authorities shall make available to all interested parties relevant information for the preparation of an offer under a competitive tender procedure. ***Infrastructure operators, in particular rail operators, who perform or have performed a public service contract, shall assist the competent authorities in***

infrastructure specifications relevant for the operation of the required vehicles or rolling stock to enable them to draft well informed business plans. Rail infrastructure managers shall support competent authorities in providing all relevant infrastructure specifications. Non-compliance with the provisions set out above shall be subject to the legal review provided for in Article 5(7)."

providing all the relevant information. They shall be liable for the accuracy of the data provided to the competent authority in compliance with the obligation of business confidentiality. This shall include information on passenger demand, fares, costs and revenues related to the public passenger transport covered by the tender and details of the infrastructure specifications relevant for the operation of the required vehicles or rolling stock to enable them to draft well informed business plans. Rail infrastructure managers shall support competent authorities in providing all relevant infrastructure specifications. Non-compliance with the provisions set out above shall be subject to the legal review provided for in Article 5(7). ***The current operator of a route or network covered by a tender in accordance with the competitive tender procedure shall provide the competent authority free of charge, with the full and precise information necessary for the preparation of an offer, particularly concerning transport demand and revenue earned from passenger transport. The former rail operator and the infrastructure operator shall compensate the other operators for any loss the latter may incur as a result of submitting tenders based on inaccurate or incomplete information.***"

Justification

Information from the infrastructure operator is not enough, as it does not include the commercial data from the rail operator. The former or current service providers – particularly established operators – must supply the relevant information in order to ensure non-discriminatory access to data. This is necessary because otherwise the competent authorities will be subjected to obligations they cannot meet.

Amendment 17

Proposal for a regulation

Article 1 – paragraph 4 – point -a (new)

Text proposed by the Commission

Amendment

***(-a) The following paragraph is inserted:
'3a. "The competent authority may exclude operators from third countries from the competitive tendering procedure if such countries have no provision for competitive tendering for companies from the Member States."***

Justification

Non-EU countries should not be given the opportunity to participate in tendering procedures in EU Member States until they have opened up their own markets to EU Member States.

Amendment 18

Proposal for a regulation

Article 1 – paragraph 4 – point a

Regulation (EC) No 1370/2007

Article 5 – paragraph 4 – point a

Text proposed by the Commission

Amendment

(a) where their average annual value is estimated at: less than EUR 1 000 000 or less than EUR 5 000 000 in the case of a **public service** contract including public transport by rail or,

(a) where their average annual value is estimated at: less than EUR 1 000 000 or less than EUR 5 000 000 in the case of a contract including public transport by rail or,

Amendment 19

Proposal for a regulation

Article 1 – paragraph 4 – point a

Regulation (EC) No 1370/2007

Article 5 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) where they concern the annual provision of less than 300 000 kilometres of public passenger transport services or less than **150 000** kilometres in the case of

(b) where they concern the annual provision of less than 300 000 kilometres of public passenger transport services or less than **1 500 000** kilometres in the case

a **public service** contract including public transport by rail.

of a contract including public transport by rail.

Justification

A figure of 150 000 kilometres, compared to 300 000, is inconsistent with the figure in subparagraph (a). The figure should be changed to a 1 500 000 kilometres for contracts including transport by rail.

Amendment 20

Proposal for a regulation

Article 1 – paragraph 5

Regulation 1370/2007/EC

Article 5 a (new) - paragraph 1

Text proposed by the Commission

1. Member States shall in compliance with State aid rules take the necessary measures to ensure **effective** and non-discriminatory access to suitable rolling stock for public passenger transport by rail for operators wishing to provide public passenger transport services by rail under public service contract.

Amendment

1. Member States shall in compliance with State aid rules take the necessary measures to ensure **equal conditions** and non-discriminatory access to suitable rolling stock for public passenger transport by rail for operators wishing to provide public passenger transport services by rail under public service contract.

Amendment 21

Proposal for a regulation

Article 1 – paragraph 5

Regulation 1370/2007/EC

Article 5 a - paragraph 2 – subparagraph 2 – introductory part

Text proposed by the Commission

The competent authority may comply with the requirement set out in the first subparagraph in **one of the following** ways:

Amendment

The competent authority may comply with the requirement set out in the first subparagraph in **various ways conducive to generating economies of scale**:

Amendment 22

Proposal for a regulation

Article 1 – paragraph 5

Regulation 1370/2007/EC

Article 5 a - paragraph 2 – subparagraph 2 – points c a (new) and c b (new)

Text proposed by the Commission

Amendment

(ca) by establishing cooperation with neighbouring local authorities with a view to making available a larger supply of rolling stock,

(cb) by applying for a contribution from its Member State as a measure supplementing one of the modalities for covering the residual value of the rolling stock.

Justification

No financing method should be ruled out (guarantee, takeover, direct purchase, etc.). However, the Member States must not evade their responsibility and unfairly pass on the cost to the local authority. The legal and regulatory framework must be shaped in such a way as to stimulate the market in rolling stock, particularly by promoting economies of scale and appropriate funding solutions.

PROCEDURE

Title	Amendment of Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail
References	COM(2013)0028 – C7-0024/2013 – 2013/0028(COD)
Committee responsible Date announced in plenary	TRAN 7.2.2013
Opinion by Date announced in plenary	REGI 7.2.2013
Rapporteur Date appointed	Rosa Estaràs Ferragut 19.2.2013
Date adopted	14.10.2013
Result of final vote	+: 29 –: 0 0: 1
Members present for the final vote	Luís Paulo Alves, Francesca Barracciu, Victor Boștinaru, Nikos Chrysogelos, Rosa Estaràs Ferragut, Brice Hortefeux, Danuta Maria Hübner, María Irigoyen Pérez, Mojca Kleva Kekuš, Constanze Angela Krehl, Petru Constantin Luhan, Iosif Matula, Lambert van Nistelrooij, Jan Olbrycht, Wojciech Michał Olejniczak, Georgios Stavrakakis, Nuno Teixeira, Oldřich Vlasák, Kerstin Westphal, Hermann Winkler, Joachim Zeller
Substitute(s) present for the final vote	Cornelia Ernst, Catherine Grèze, Karin Kadenbach, Maurice Ponga, Elisabeth Schroedter, Richard Seeber, Giommara Uggias, Derek Vaughan
Substitute(s) under Rule 187(2) present for the final vote	Edvard Kožušník

PROCEDURE

Title	Amendment of Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail			
References	COM(2013)0028 – C7-0024/2013 – 2013/0028(COD)			
Date submitted to Parliament	30.1.2013			
Committee responsible Date announced in plenary	TRAN 7.2.2013			
Committee(s) asked for opinion(s) Date announced in plenary	EMPL 7.2.2013	ENVI 7.2.2013	ITRE 7.2.2013	IMCO 7.2.2013
	REGI 7.2.2013			
Not delivering opinions Date of decision	ENVI 19.2.2013	ITRE 20.2.2013	IMCO 20.2.2013	
Rapporteur(s) Date appointed	Mathieu Grosch 6.3.2013			
Discussed in committee	8.7.2013	14.10.2013		
Date adopted	17.12.2013			
Result of final vote	+: -: 0:	28 11 6		
Members present for the final vote	Inés Ayala Sender, Georges Bach, Erik Bánki, Izaskun Bilbao Barandica, Antonio Cancian, Michael Cramer, Joseph Cuschieri, Philippe De Backer, Luis de Grandes Pascual, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Knut Fleckenstein, Jacqueline Foster, Franco Frigo, Mathieu Grosch, Jim Higgins, Juozas Imbrasas, Dieter-Lebrecht Koch, Georgios Koumoutsakos, Werner Kuhn, Jörg Leichtfried, Bogusław Liberadzki, Marian-Jean Marinescu, Gesine Meissner, Mike Nattrass, Hubert Pirker, Dominique Riquet, Petri Sarvamaa, David-Maria Sassoli, Vilja Savisaar-Toomast, Olga Sehnalová, Brian Simpson, Silvia-Adriana Țicău, Giommaria Uggias, Peter van Dalen, Patricia van der Kammen, Roberts Zile			
Substitute(s) present for the final vote	Jean-Jacob Bicep, Bogdan Kazimierz Marcinkiewicz, Alfreds Rubiks, Sabine Wils, Karim Zéribi			
Substitute(s) under Rule 187(2) present for the final vote	Ivo Strejček			
Date tabled	16.1.2014			