



Workshop on tendering of rail public service contracts - Bidders' access to production factors -

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Access to production factors

- Rolling stock and its financing
- Staff
- Service facilities:
 - Stations
 - Maintenance workshops
 - Ticket distribution

Access to production factors

- Rolling stock (RS) and its financing
- Access to rolling stock is considered biggest market entry barrier (existing RS usually in hands of incumbents, purchasing new RS requires huge capital investment, amortisation not possible under one PSC)
- PSO Regulation requires that competent authorities (CA) assess the need to take measures to ensure non-discriminatory access to RS

Access to production factors

- If non-discriminatory access cannot be ensured, CA can take different kinds of measures in line with state aid rules, e.g.:
 - Acquiring the RS itself to make it available
 - Providing a financing guarantee
 - Providing a take-over guarantee
 - Cooperating with other CA to set up a larger RS pool



Access to production factors

- Numerous financing models of new rolling stock
- EIB has a long-standing experience in financing RS
 - EIB Advisory Hub/JASPERS can provide technical assistance
- ERDF/CF, if region qualifies for support
- Leasing from ROSCOs may be an alternative in certain cases

Access to production factors

- Suitable staff
- Depending on the volume of the contract and the characteristics of the labour market a staff transfer may be useful
- In most MS with open markets staff transfer is required, either contractually or by law

Access to production factors

- Conditions of staff transfer being determined:
 - By competent authority
 - By Directive 2001/23, if conditions fulfilled (e.g. transfer of assets such as rolling stock)
- Staff transfer and its conditions to be included in tender documents

Access to service facilities (Annex II of directive 2012/34/EU)

Passenger stations

- *plus their buildings and other facilities, incl travel information display and suitable location for ticketing*

Freight terminals

Marshalling yards and train formation facilities

incl. shunting facilities

Storage sidings

Maintenance facilities

with the exception of heavy maintenance facilities

Maritime/inland port facilities

- *when linked to rail activities*

Other technical facilities

incl. cleaning and washing facilities

Relief facilities

Refueling facilities

- *plus supply of fuel*





Article 13(2) of the recast

Operators of service facilities must supply

NON-DISCRIMINATORY ACCESS

to the

service facilities AND services

supplied in these facilities

(services supplied in these facilities = „basic services“)

Procedure for Access/supply of „basic services“ – Art. 13(4) of the recast

Request

- Answer within reasonable time limit set by RB

Reply

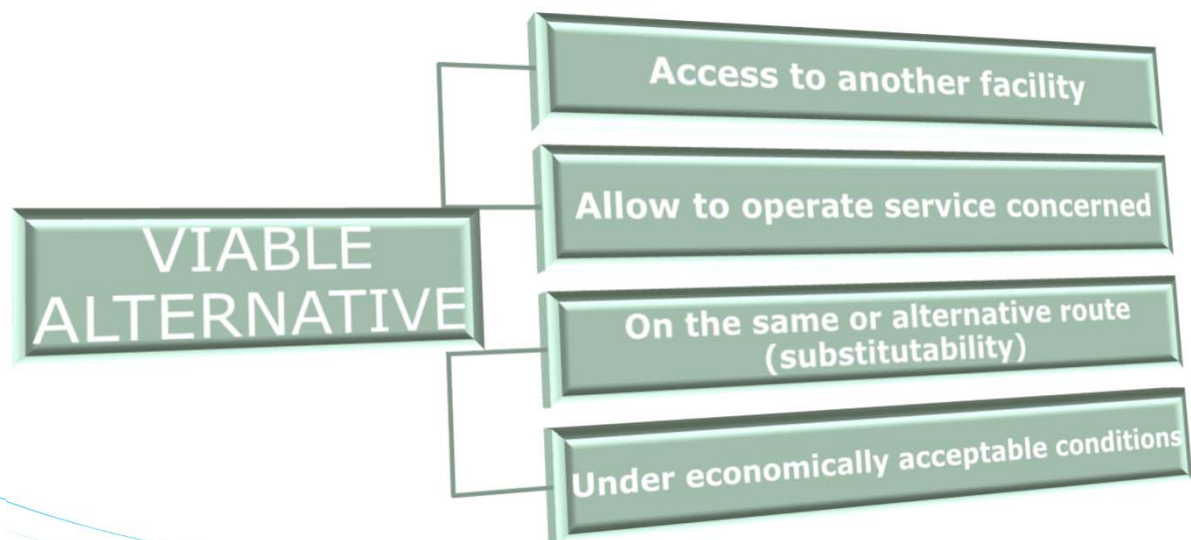
- Refusal only possible if there is viable alternative
(*Justification in writing, if operator has dominant position*)
- In case of conflict: obligation to try to accommodate all requests

[RB]

- No capacity, no viable alternative, demonstrated needs: RB may act to ensure that appropriate part of capacity is allocated to applicant



Viabile alternative – Art. 13(4) of the recast





Article 13(7) and (8) of the recast

Additional/ancillary services (e.g. traction current, control of dangerous goods, technical inspection of rolling stock, heavy maintenance for high-speed trains)

May be subject to less stringent access rules

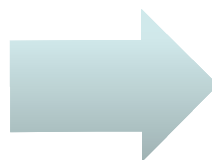
Principle of non-discrimination



Information on service facilities (Article 27, 31(10) and Annex IV, point 6)

Service facility operators

- Information on
- *access charges*
- *Service charges*
- *Technical access conditions*



Infrastructure manager

- Publish information in network statement
- *Alternative: link to website or to common web portal*

Charging rules (Article 31(7) and (8) of the recast)

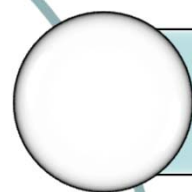
Cost of providing service
+ *(optional) reasonable profit*

Track
access +
supply of
„basic“
service

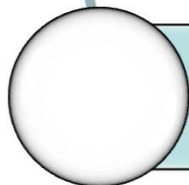
Additional
service –
only one
supplier

Ancillary
service –
only one
supplier

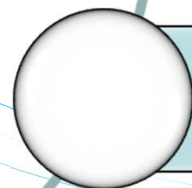
Other aspects – Art. 13(3) and (6) of the recast



Use it or lease it



Independence requirements



Accounting separation

