

Fourth Rail Monitor NMa (2009)

Summary and conclusions

Under the Dutch Railway Act, the Office of Transport Regulation (VK) of the NMa is charged with the industry-specific oversight of the railway industry. From time to time, the VK draws up a Rail Monitor to gauge the current state of play in the industry, while also using it as input when setting its priorities for the years ahead. The current Fourth Rail Monitor reflects the opinions of market parties on the railway industry and on the VK. Since the questions on Keyrail have been answered by relatively only a few respondents, their results have been interpreted with the necessary caution. On the basis of the results of the Rail Monitor, the VK will reset its priorities and will publish these in a Plan of Action, sometime in 2009.

In general, the Dutch rail transport market is functioning quite well, although parties have expressed some dissatisfaction about several points. The VK however has observed a noticeable improvement over time. In comparison with the previous Rail Monitor, the 2009 capacity allocation process can be considered a success. ProRail in particular has made considerable progress. Another positive development is that both ProRail and Keyrail have incorporated incentives into the infrastructure charge which could lead to increased capacity. ProRail has started to include the noise factor in the infrastructure charge, thus stimulating transport undertakings to switch to rolling stock that produce less noise, as current noise restrictions would actually allow for more trains, if they produced less noise. Keyrail wants to charge the parking of trains at yards, thus stimulating transport undertakings to use the yards more efficiently.

In the VK's view, there are three bottlenecks that can be deduced from this Rail Monitor:

1. The infrastructure charge. The sharp increase of ProRail's infrastructure charge for 2010 has caused great concern among passenger transport undertakings, citing a lack of transparency in the make-up of the charge as well as in the reason for the charge's increase. In addition, Keyrail's planned parking charge has become a major topic of discussion among freight transport undertakings.

2. Rail-Related Services (RRSs). Legal relationships between providers and users of RRSs do not seem to have fully taken shape yet, as market parties find it difficult to agree on what exactly constitutes an RRS. RRSs are train-related services that are not included in the base access package and that are not regulated by the Railway Act. Services whose RRS-status remains to be unclear are, among others, station buildings, staff areas, and workshops. One of the VK's recommendations in the Evaluation of the Railway Act was to draw up a list of RRSs and to include this in the legislation. With respect to certain specific RRSs, market parties criticize the management of the RRS fueling stations, claiming there is a lack of them, as well as a lack of transparency in the tariffs. Criticisms against RRSs in general and against the fueling stations in particular hardly differ in nature nor in number with those expressed in the previous Rail Monitor.

3. The Network Statement. The Network Statement is a crucial document for gaining access to the infrastructure. In the interviews, respondents said they were reasonably satisfied with the Network Statements of ProRail and Keyrail as to their contents and processes. Market parties' comments on the contents were quite diverse, whereas the comments on the processes largely concentrated on ProRail's consultation procedures. The consultation procedures of ProRail and Keyrail can thus be regarded as the biggest joint item with regard to the Network Statement. Transport undertakings believe that both consultation procedures should be harmonized, that the reaction period to the draft Network Statement should be longer, and that the number of meetings should be reduced. Also, having two separate Network Statements – one of ProRail and one of Keyrail – is considered to be too big an administrative burden by a number of transport undertakings.

With regard to the managers' independence, the capacity allocation, and the international cooperation among infrastructure managers, the Rail Monitor's results further show that parties are sufficiently satisfied and/or that real progress has been made on these subjects.

Parties have expressed noticeably less criticism about the capacity allocation process compared to the previous Rail Monitor. This may be explained by: 1) the NMa's decisions in complaint cases, which has provided more insight as to how capacity should be allocated according to the Railway Act, and 2) the steps that ProRail has made to increase objectivity in settlement procedures for disputes between management and transport. Also, market parties' satisfaction with the international capacity allocation is showing an upward trend. Yet, the international cooperation between national infrastructure managers remains a point of

criticism, as in previous years. ProRail and Keyrail's independence is of vital importance to market parties - a majority says they truly get the feeling that ProRail and Keyrail are independent from railway undertakings.

The questionnaire further reveals that a majority of parties are satisfied with the way the VK works and with the NMA's decisions. Several transport undertakings indicated they tended toward not filing a complaint, fearing it would compromise their own interests. The VK acknowledges such a fear exists, but emphasizes that, from experience, there is no reason to fear. Nevertheless, it is good that this point is brought up anonymously in this Rail Monitor.

The 4th Rail Monitor of the NMA contains the results of a questionnaire and of interviews with parties of the rail transport industry. These results have given the VK a clear picture of what the really important as well as the somewhat less important bottlenecks in the market are. Serving as one of the many different inputs, the results of the Rail Monitor will be used by the VK in its process of setting its priorities in its Working Plan. From that perspective, all participating parties in the railway industry thus influence that process. And, on top of that, railway undertakings and other stakeholders have another alternative to influence proceedings – they can always file a complaint with the VK.