



## RailCom – Newsletter No 7

Bern, June 2022

### Editorial

Dear Reader

In this newsletter, we report on how we are working with the industry to meet last-mile rail freight service obligations in accordance with Article 6a of the Goods Carriage Ordinance, while taking account of the various framework conditions that apply to those concerned. Since 1 July 2020, companies that provide services over the last mile are required to do so in a non-discriminatory manner.

Furthermore, as part of our market monitoring, we are currently focusing on capacity management in the event of restrictions due to construction work on the railway network. This means that infrastructure managers must avoid discrimination when planning intervals and capacity restrictions and when deciding on replacement measures. In this newsletter, we explain the measures we agreed with SBB Infrastructure to achieve this. The challenge of planning of construction intervals and replacement services proactively and reliably lies in providing clear information to the companies concerned and optimising effective participation and equal treatment.

I am pleased to inform you that we have published our [2021 Activity Report](#) on our website.



I hope you enjoy reading this newsletter.

Patrizia Danioth Halter, President

## Last-mile rail freight services - Meeting the obligations

As we reported in our [penultimate newsletter](#), last-mile rail freight services must be provided in a non-discriminatory manner (Article 6a of the Goods Carriage Ordinance; GCarO). We support the industry in implementing this obligation in compliance with the law and advise the companies concerned on how various framework conditions can be taken into account in the process.

### Stakeholders concerned

All companies which provide services or ancillary services over the last mile are obliged to provide their last-mile rail freight services in a non-discriminatory manner in accordance with Article 6a GCarO. In addition to rail freight undertakings (RFUs), this also concerns siding operators, specialised personnel employment agencies and shunting service providers.

The companies concerned range from RFUs that simply operate from station to station, via those that provide services on the last mile exclusively for their own purposes, to RFUs that provide a full range of services, including those to third parties. In addition, there are numerous siding operators who conduct their own shunting operations or provide such services to third parties. The law also covers companies that conduct shunting operations on the last mile themselves or offer ancillary services on the market that are relevant for operations on the last mile (e.g. technical checks on train departure).

We conducted a survey of the companies, transport operations and services that are affected by Article 6a GCarO and compiled a [factsheet](#) (in German, French and Italian). In it, we indicate the specific obligations that result from the requirement of non-discrimination.

### Obligation to publish

In particular, the companies concerned are required to publish their basic terms and conditions for providing their services, for planning and allocating resources, and for pricing and discounts (see [factsheet](#)).

Following discussions with the industry, we recommend that companies publish the following information:

- the services that they offer (incl. other freight services provided in addition to shunting on the last mile);
- the formal procedure with deadlines for the ordering and cancelling services and for concluding the contract for services;
- the basic prices for the resources and services required;
- other general conditions that are of elementary importance to the client when obtaining services (e.g. the place where the services are provided).

RailCom provides a [template](#) for publishing this information. In this way, RailCom encourages transparency and uniformity in these publications.

**Simplified publication obligation**

Siding operators who conduct shunting operations in a perimeter in which there is no intermodal freight terminal are only required to publish their terms and conditions if they are requested to do so. On their website, these siding operators only have to state whether they have locomotives and locomotive crews and which shunting services they are currently providing for their own purposes.

**Sensitive business information and password-protected access**

Sensitive business information can be made available in a password-protected area. All other information - in particular on the range of services and the formal procedure - must be published without a password. Companies are required to grant (password) access promptly and free of charge if requested to do so by customers who have a genuine interest in a service. Customers who experience difficulties in gaining access to the information or who are denied access altogether can contact RailCom.

## Transparency, participation and equal treatment in interval planning

In one of our focus topics in 2021/22, we analysed capacity management in the event of restrictions due to construction work on the railway infrastructure. In the process, we agreed measures with SBB Infrastructure to ensure transparency, participation and equal treatment in interval planning and replacement measures for the benefit of the RFUs affected.

### Background

The principle of non-discriminatory network access applies to interval planning, which is part of capacity planning. This means that infrastructure managers must avoid discrimination when planning intervals and capacity restrictions and when deciding on replacement measures.

As part of a priority market monitoring procedure, RailCom analysed how SBB Infrastructure carries out interval planning and decides on replacement measures. The focus was on SBB Infrastructure because, as the largest infrastructure manager, it plays a key role in interval planning on the Swiss standard-gauge network. In our last newsletter ([RailCom - News No. 6](#)), we explained that we check that non-discrimination is guaranteed using the following three criteria:

- **Transparency:** The information on which interval planning is based and the procedure must be known and comprehensible.
- **Participation:** The network users affected must be able to take an active part and play an effective role in the process.
- **Equal treatment and most favourable outcome for all:** All RFUs must be treated equally by the infrastructure manager under the same conditions, regardless of the type of transport that an RFU offers or whether it is serving itself or a third party.

Generally, network users are satisfied with the way SBB Infrastructure handles the demanding task of interval planning and appreciate their opportunity to participate. However, in order to ensure non-discrimination throughout, there is a need for action in several areas. In the following section, we explain where RailCom has agreed measures with SBB Infrastructure.

### Strategic and operational planning guidelines

SBB Infrastructure bases its strategic and operational decisions on various principles when determining construction requirements, planning intervals and devising replacement measures. Passenger and freight traffic must be treated equally. This means that the different requirements of these two modes of transport must be adequately taken into account: In licensed passenger transport, there are stable long-term plans for service provision, whereas this is only possible to a limited extent in freight transport because of the competition between RFUs and the more volatile traffic flows. In order to achieve the best possible results for all network users, SBB Infrastructure will define its principles and planning guidelines and make them known to the RFUs. SBB Infrastructure will make these principles binding within its organisation, communicate them to the RFUs and thus increase transparency.

### Involvement in long-term construction planning

When planning construction work, SBB Infrastructure is caught between the need to communicate its intentions as soon as possible and ensuring that the information it provides is as reliable as possible. This difficulty in providing accurate information is caused, for example, by delays in projects, dependencies on other operations, reprioritisation, objections, etc. It is currently possible to give notice of capacity reductions caused by plannable construction work in the network utilisation plan. This should be done more often so that all network users can also be involved in the long-term planning of the construction programme in good time and on an equal footing.

### Monitoring of equal treatment

In the capacity management steering meeting, the interval planners from SBB Infrastructure present their drafts for replacement measures and discuss these with the RFUs concerned. The RFUs appreciate these monthly meetings and regard the results as positive. The solution-finding process for disputes over replacement measures must be transparent and balanced. This requires the RFUs to be flexible and willing to compromise. However, the ultimate responsibility lies with SBB Infrastructure to implement non-

discriminatory replacement measures in which individual RFUs or modes of transport are not systematically favoured or disadvantaged. To this end, SBB Infrastructure will in future collect feedback from RFUs on specific issues in a standardised procedure. Systematic surveys are to be used to develop a feedback culture that will reveal cases of unequal treatment and enable SBB Infrastructure to take countermeasures.

## **Outlook**

RailCom has agreed measures with SBB Infrastructure and is providing support with their implementation. In a next step, RailCom will also take up the issue with SOB Infrastructure and BLS Network and determine where there is need for action.

## **Other topics in brief**

### **IRG-Rail Market Monitoring Report**

The railway regulators from more than 30 European countries have joined forces as the Independent Regulators' Group - Rail (IRG-Rail). RailCom collects the data from Switzerland for the annual IRG-Rail Market Monitoring Report. The recently published [10th Market Monitoring Report](#) provides data on the rail network and train path prices as well as on the freight and passenger transport markets in European countries. In addition, the impact of the COVID-19 pandemic on freight and passenger traffic is examined.

### **2021 Activity report published**

[Here](#) you will find our latest activity report. The main topics in 2021 were interval planning and the prices and discounts of the combined transport transshipment facilities co-financed by the federal government.

### **RailCom article in the Schweizer Eisenbahn-Revue on construction and maintenance measures**

In the 5/2022 issue of the Swiss Railway Review, RailCom has published an article on the subject of construction and maintenance measures on the Swiss railway infrastructure. With the kind consent of the publisher Minirex AG, we are making the [article](#) available on our website.