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Brussels, 10 October 2018

# CER Position paper

## Commission proposal COM(2018)279 on electronic freight transport information (eFTI Proposal)

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### About CER

The Community of European Railway and Infrastructure Companies (CER) brings together more than 70 railway undertakings, their national associations as well as infrastructure managers and vehicle leasing companies. The membership is made up of long-established bodies, new entrants and both private and public enterprises, representing 73% of the rail network length, 80% of the rail freight business and about 96% of rail passenger operations in EU, EFTA and EU accession countries. CER represents the interests of its members towards EU policy makers and transport stakeholders, advocating rail as the backbone of a competitive and sustainable transport system in Europe. For more information, visit [www.cer.be](http://www.cer.be) or follow us via Twitter at @CER\_railways.

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## 1. The PRINCIPLE of MANDATING ACCEPTANCE by Authorities is good.

- a) CER agrees with the Commission's proposal that the acceptance of regulatory data in "electronic" format by authorities is one important prerequisite for the digitalisation of transport information.
- b) When such data is accepted by some authorities in a certain IT format, the same format may not be recognised by other authorities, which may require economic operators to provide the same data in different IT formats or on paper.
- c) Submission of regulatory data in electronic format to authorities may alleviate the disruptions and delays in the logistic chain caused by the handling of paper documents.
- d) Therefore CER supports the principle of a regulation which encourages authorities to take full advantage of digitalisation.
- e) As a matter of fact, the rail freight sector is most advanced in exchanging transport information in electronic format. Via the IT platform "Orfeus" managed by the IT Service Provider "RailData", transport information displayed in the Consignment Note is already exchanged electronically between economic operators (including shippers and rail freight operators involved in a transport chain). This information is often exchanged well in advance of the Paper Consignment Note, so as to allow all operators to plan operations. If, on top, authorities wish to access regulatory information transiting via the central Orfeus Platform of RailData or directly from the railways' individual platforms, railways are ready to discuss best ways to achieve this for the benefits of all actors.
- f) However, depending on the number of cases, it is not always economically relevant to transfer all types of information by electronic means, e.g. veterinary certificates or documents of origin. Therefore, CER welcomes the fact that the proposal does NOT mandate electronic submission of data in all cases and still leaves economic operators the freedom to submit regulatory information on paper. Also, in case of failure of data transmission, paper will remain the only acceptable and economically relevant backup solution. In no case, the legislation must mandate digitalisation as digitalisation should always be the result of a case-by-case cost-benefit analysis (business case evaluation)

## 2. The proposed FORMAT and PROCESSES shall be developed respecting cost-benefit-analysis principles

- g) The regulation is applicable to all modes of transport. However, there are big differences between modes regarding the degree of digitalization and the problems faced with the application of digital solutions with public authorities. Thus, the regulation should not affect B-to-A electronic data exchanges currently in place and experienced to be satisfactory by both the Administrations and the Businesses concerned. Every change to existing data models may cause considerable additional costs. Existing processes and IT-systems that have proven successful in practice need to be further applicable. The regulation itself should provide for such a right of continuance of already successfully applied systems and of sector-specific solutions (e.g. in Art. 4 or 5).

- h) The expected costs of the implementation of the regulation are listed in the impact assessment of the proposal itself. The costs are related to investments necessary to comply with the new policy requirements. For public authorities the costs are estimated at around EUR 268 million. “For businesses, the compliance costs are expected to be in the range of EUR 4.4 billion” (see page 11, par.4). These costs need to be specified and it has to be explained who will have to bear these costs.

### 3. The authorization of the Commission to adopt delegated acts or implementing acts needs to be defined more precisely.

- a) The proposal provides limited framework indications and leaves out the regulation of the details and a large room for manoeuvre to implementing acts (see e.g. Art. 7, 8 II, 9 II) or delegated acts (see e.g. Art. 2 II, 11, 12). This lack of concretion in the proposal itself makes it difficult for economic operators and authorities alike to evaluate the cost-benefit-analysis of the proposal right now. The far-reaching authorization to adopt delegated acts and implementing acts needs to be limited in order to be more foreseeable as to the contents of the future regulation. The central aspects of the systems to be established should already be provided for in the regulation itself and not delegated to such an extent to secondary regulation.

In any case, primary or secondary regulation should guarantee the following principles:

- b) Considering that the IT industry is a fast-moving one, the regulation and its delegated or implementing acts should not mandate formats, specifications, processes or procedures in too much detail, but only promote basic principles of safety and security that can be implemented using whatever state-of-the art technology is available at any given time as long as it is acceptable to both administrations and businesses.
- c) For example, new technological developments like ‘block-chain’ technologies may soon render certain practices obsolete. The regulation should not freeze future innovation that may lead to a simplification of processes and that may for example render the very concept of “certification” irrelevant. The regulation must take the impact of upcoming technological developments into account by leaving a sufficient room for manoeuvre to the transport sectors concerned. How can the regulation take the impact of upcoming technological developments into account?
- d) The question whether the concept of Certified eFTI Platforms and Certified eFTI Providers can be simplified needs to be discussed and if possible be adjusted. If a provider is certified, is there a need to use a certified platform? If a provider uses a certified platform, does he need to be a certified eFTI provider on top? The proposal is not totally clear on this.

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