

Swiss federal law on railway noise

CER - UIP - ERFA comments on the consultation

29 August 2012

General remarks

CER, UIP and ERFA understand and support the intention of the Swiss government to reduce the problem of railway noise and speed up the processes of retrofitting the old and noisy brake block types of freight wagons. However, the measure foreseen (de facto ban of cast-iron brake blocks by January 1st 2020) in the draft law would cause severe problems for the European single market and will create intermodal as well as intra-modal distortion of competition.

CER, UIP and ERFA strongly believe that noise reduction measures should respect the single market. The ban of cast iron brake blocks as foreseen by the federal law from 2020 on would be a barrier to the single market.

Contrary to what is stated in the explanatory note of the Swiss Federal Office for Transport (BAV), it is unlikely that enough wagons and type of wagons (i.e. non-Swiss) will be equipped with composite brake blocks by 2020 in order to compose trains within, to, from and through Switzerland containing silent wagons only. Given

- the high percentage of non-Swiss wagons (50%) used today for the supply of Swiss shippers (import, export, internal) or running in transit through the country,
- the actual amount of wagons complying with the provisions laid down in the TSI Noise,
- the potential capacity of the manufacturing industry for new wagons and
- the difficult economic situation in general and of rail freight operators in particular

it is even too optimistic to expect that the number of new wagons reaches 100 000 in 2020 (only 50% of the amount assumed by the BAV).

Furthermore it will not be economically possible for current foreign wagons to be retrofitted in time. In fact, it will prevent the majority of European wagons to be operated within, to, from or through Switzerland. **As a result, rail freight traffic through or within Switzerland will most likely be negatively affected, with a massive impact not only on customers and foreign undertakings but also on Swiss railway companies which operate trains and foreign wagons.**

Harmonization of regulation

CER, UIP and ERFA have always supported the subsidiary principle when implementing (or not) noise differentiated track access charges. However such charging should not lead to distortions to competition, neither within the rail sector nor between transport modes. Switzerland's central location and its international engagements with the European Union

also implies a duty to respect the internal market and, wherever possible, to seek collaborative solutions together with its EU partners.

The application of noise differentiated track access charges should thus be harmonized across the European territory; only in this way their effect will be maximized. In this respect CER, UIP and ERFA call for a coordinated approach of Switzerland with the European Commission. This should apply particularly to the alignment of the Swiss regulation with the implementing act as enacted in the Article 31, paragraph 5 of the Directive of the European Parliament and of the Council establishing a single European railway area (Recast).

Distortion of intermodal competition

CER, UIP and ERFA support the full internalisation of the external costs of transport provided that it is implemented without distorting competition either between or within transport modes.

Moreover substantial costs would result from the necessity to modify disposition plans of composing trains, wagon routing and their verification before train departure (that will have to depend on brake block type); this will further damage the sustainability of rail freight, especially single wagon load traffic.

Consequently CER, UIP and ERFA point out that there is no general ban of noisy vehicles in the other transport modes and that such a measure will lead to reverse modal shift from rail to road.

Banning cast-iron brake blocks creates distortion of intra-modal competition

Switzerland is geographically at the heart of Europe and thus represents an essential part of the European network both for North-South and East-West railway traffics. In the Swiss system, the proactive actions to reduce rail noise taken by the Swiss authorities (100% state aid to retrofit Swiss registered wagons) would put these wagons in a very different competing position compared to foreign wagons, if such a ban was introduced.

As a general rule, if some states (co-)finance the retrofitting of wagons while others do not, then different wagon keepers will end up with very different wagon fleets depending on the place of registration of the wagons or on their home market. Wagon keepers from more pro-active states would have a higher proportion of retrofitted wagons. If a penalty system is then introduced based on the 'polluter-pays' principle, then these wagon keepers would have a competitive advantage caused by an uneven disbursement of public funds across Europe. Conversely, those wagons owners/keepers who do not enjoy state co-financing will be more likely affected by higher infrastructure charges and then suffer a "double penalty". Such a situation would distort competition and would threaten the core principles of the single market.

Technical aspects

From a technical point of view, no technical solution exists to date for retrofitting some types of freight wagons, as composite blocks (even of K type) are not yet available for

some configurations such as wheel diameters less than 840 mm, heavy total weight, light tare weight, vehicles running at speed higher than 120km/h, etc.

As far as LL-blocks are concerned, their authorization is still pending and full life-cycle analysis has not yet been done. Only when the authorization will be accomplished, producers of friction materials can expand gradually their capacity. It is therefore not realistic to presume a rapid retrofitting of the existing fleet of wagons that would enable the majority of the fleet being equipped with composite brake blocks by 2020.

Conclusion

European rail freight operating companies and wagon keepers have been recently exposed to an increased number of additional measures inducing relatively high costs (Safety, ERTMS, TAF TSI...); this all under the situation when the rail cargo business is not profitable and thus does not allow any extra investments funded by the companies themselves.

Expenses caused by retrofitting of freight wagons together with accompanying higher operating costs cannot be realistically covered by the companies not entitled to any sufficient state aid or subsidies. Should a ban of cast iron blocks come on top, demanding even higher spending rate in shorter time, it will result in closing certain business segments (especially single wagon load) and inevitably will cause a reverse modal shift from rail to road. This is reinforced by the fact that no general ban of noisy vehicles exists in the other transport modes.

Therefore CER, UIP and ERFA are against the principle of a general ban of cast iron blocks in Europe. If Switzerland decides to ban cast iron brake blocks, it should be only introduced when the majority of the wagon fleet in Europe could realistically be retrofitted taking into consideration the technical feasibility and in particular economic situation of wagon keepers and railway undertakings (i.e. not before 2028).

The European Commission should support retrofitting of the 370 000 wagons (cf. KCW study ordered by the Commission in 2008, which considers the options to retrofit noisy wagons, while preserving the rail freight traffic) by allocating the necessary funding, provided that it does not generate any direct or indirect discriminatory effects.

CER, UIP and ERFA call for a Swiss approach coherent with existing EU legislation in the development of measures to reduce rail noise. This is the only way to guarantee a maximal effect, while preserving the free movement of goods within Europe.