

CER position on Multimodal Digital Mobility Services

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Dear Executive Vice Presidents,

Dear Commissioners,

European railways are eager to serve as a fundamental pillar to reach the emission reduction goals of the 'European Green Deal'. We also see rail targeted as the key mode to decarbonise transport in most of the European Commission's transport-related initiatives announced for 2023. We understand that these include a Multimodal Digital Mobility Services (MDMS) Initiative to come in Q2 2023.

CER members are committed to improving rail distribution and ticketing. They have developed the CER Ticketing Roadmap and are actively dedicating a lot of resources to secure its implementation by 2025 as announced. The CER Ticketing Roadmap is a big move forward for the vast majority of European railways and an invitation to other stakeholders to improve the passenger rail sector together. The first progress report on the Roadmap's implementation will be made available to the Commission in February 2023.

CER members are already delivering elements of the Roadmap today, such as the Agreement on Journey Continuation, a relevant sector initiative aimed at favouring the combination of different travel solutions. These efforts are due to be bolstered by the recognition of OSDM – the 'Open Sales and Distribution Model' developed by the sector – in the revision of the regulatory framework for interoperable data sharing in railways (the Telematic Application for Passengers (TAP) TSI Regulation). It is regrettable therefore that this revision has been further postponed, delaying much needed investments for the benefit of passengers and generating uncertainty within the sector.

While the MDMS proposal aims at addressing distribution issues and improving the passenger experience, there are significant technical and commercial concerns that could make its implementation difficult for railways. These need to be addressed in the MDMS and a Common European Mobility Dataspace proposals:

- **Sector solutions are the fastest** – Sector-based solutions should be supported and considered as the starting point, when improving multimodal ticketing. We expect the Commission proposal to provide a legal framework where transport operators are not deterred from innovating, meaning they have ownership of proprietary solutions, commercially sensitive insights are protected, and incentives to invest in ways of generating value through the entire transport chain are preserved.
- **Passengers need low prices** – The economics of transport operators and ticket vendors needs to be properly considered to avoid undermining transport economics or substantially increasing passenger ticket prices. Transport operators run services with very small profit margins but bearing the full cost of operations, while ticket vendors focus only on a single sales channel with high margins and limited costs for their services. The additional costs for operators that may arise from the implementation of the MDMS Regulation may have the counter-productive effect of increasing ticket prices and threatening the modal shift objective.
- **Well-defined FRAND Principles** – The proposals should promote a digital market framework where railway undertakings, ticket vendors and other transport operators can freely engage in data sharing under fair, reasonable and non-discriminatory (FRAND) commercial agreements. Such FRAND principles should be based on existing best practices in the railway sector and strike a balance between the interests of the distributors and of the railway operators. Their interpretation for contracts should be clearly defined, avoiding uncertainty and costs of potential litigation.
- **Avoid dominance of digital platforms** – Distribution commissions, unless capped at low level, increase the risk that well-funded tech giants (often non-European actors), with limited investments in the distributed services, would enjoy guaranteed profits at the expense of the economic viability of railway undertakings' operations and other transport services providers (be them public or small SME private), at the expense of the public sector budget (though increased PSO costs) and finally at the expense of the consumer, that would pay either through taxes or through increased prices. Besides the fact that this would lead to revenues flowing out of the public transport system, due to network effects, there is also the risk that such digital platforms become dominant "gate-keepers". Powerful digital platforms would be in possession of the customer interface and valuable data such as demand for particular trips. This is exactly the kind of data which transport operators need to schedule their transport and optimize their offer – to the benefit of customers. Therefore, any regulatory intervention into commercial conditions/partnerships should therefore be avoided, with the focus being placed on complying to their ultimate consequences with the limitations already provided for in this regard by Regulation (EU) 2022/1925 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Regulation or DMA).
- **Protect non-digital ticket sales** – Providing services to less digitally literate passengers generates higher costs as it requires more expensive sales channels (ticket booths, machines, and on-board sales). This needs to be taken into account to help safeguard such services.
- **Railways already share data** – With regard to data sharing, transport operators are already, and even more so with the current revision of Delegated Regulation 2017/1926 and the implementation by June 2023 of the in 2021 revised Rail Passenger Rights Regulation, obliged to share data. Furthermore, there are voluntary data sharing initiatives such as the German Mobility Data Space. A future common European Mobility Data Space should build on such existing data spaces.
- **No obligation to sell competitors' tickets** – The obligation to sell competitors' tickets would mainly lead to massive investments in our distribution platforms to connect all those RUs that don't commit to OSDM and insist on keeping their proprietary interfaces. In addition the obligation could reduce the incentive to

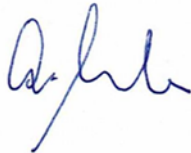
compete on the RU owned quality of the platform and, ultimately, on the quality of the underlying service.. Quality plays, and should continue to play, a central role in consumer choice. At most, the obligation should be limited only to the display of schedules that are available in MERITS without the need of integrating the purchasing process.

Lastly, we would also like to point out the fundamental importance of necessity and proportionality of the legislation. Improving cross-border rail travel, in our opinion, requires first and foremost a massive increase of investment in infrastructure and in interoperability as well as investments in rolling stock – an overhaul of rail ticketing can only ever supplement these essentials. Duration, affordability and comfort of travel are key criteria in passenger choice.

We are interested in continuing to be a constructive partner on modal shift, of which ticketing is an important aspect, and are looking forward to engaging with you on this topic.

Sincerely,

Alberto Mazzola

A handwritten signature in blue ink, appearing to read 'A. Mazzola', is positioned below the typed name.