EUROPEAN
COMMISSION

Brussels, 26.3.2021
SWD(2021) 72 final

COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE EVALUATION

of

Commission Implementing Regulation (EU) 2015/429 and the rules for noise differentiated track access charges

{SWD(2021) 71 final}

EN EN

1 Introduction

Commission Implementing Regulation (EU) 2015/429 of 13 March 2015 *setting out the modalities to be followed for the application of the charging for the cost of noise effects*[1], provides Member States (hereinafter 'the Implementing Regulation') with the legal framework to establish a noise-differentiated track access scheme (NDTAC) for their national railway infrastructure in accordance with Article 31(5), first subparagraph, of Directive 2012/34/EU[2]. The voluntary scheme proposes an optional bonus per kilometre travelled for 'silent' freight wagons and an optional surcharge (known as a malus) for 'noisy' freight wagons.

The Commission evaluated the scheme between 2016 and 2018 focussing on the NDTAC schemes of Austria, Germany and the Netherlands[3]. Of these three Member States, Germany and the Netherlands already had schemes in place before the Implementing Regulation with characteristics that were very similar to the requirements set by the Implementing Regulation. Therefore, the quantitative analysis is based solely on Austria's scheme. This means that the evaluation of quantitative elements is rather limited. However, input from stakeholders on all aspects of the evaluation, complements the data from the quantitative assessment.

2 Evaluation results

Effectiveness

The Implementing Regulation has had a positive, yet limited, effect in reducing the noise levels of rail freight in Austria: retrofitting of an additional 1 500 freight wagons and a saving of approximately €21.8 million in external costs. The national schemes in Germany and in the Netherlands were found to be effective in incentivising retrofitting. Although these effects cannot be attributed to the Implementing Regulation, it suggests that measures aiming to increase the number or effectiveness of NDTAC schemes, such as the Implementing Regulation, will also be effective.

The effectiveness of the Implementing Regulation was also likely reduced by the fact that there is no explicit mechanism describing how the bonus should be passed on. The railway undertakings initially receive the bonus and are expected to reimburse the wagon keepers, who pay for the retrofitting, (if they are not part of the same entity). This means that the allocation of costs and benefits are partially misaligned. According to the evaluation, the Implementing Regulation has not influenced the competitive position of railway undertakings within the rail market and it has had only a limited effect on the position of railway undertakings compared to other modes of transport. The evaluation of the Implementing Regulation did not identify any unexpected or unintended effects.

Efficiency

The direct annual costs for national authorities to implement a NDTAC scheme are equivalent to around 0.2% of the annual bonus payments. The annual costs for infrastructure managers are between 2 and 5%. In Austria, the combined introduction and ongoing costs

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0429&from=EN

[2] OJ L 343, 14.12.2012, p. 32.

[3] Czechia has introduced a scheme in 2019 and the evaluation therefore does not cover this scheme.

for 2018 for authorities, infrastructure managers and railway undertakings, amounted to €4.5 million and led to an estimated benefit to society of €21.8 million. The Dutch NDTAC scheme has achieved the lowest operational costs of €427 per million axle-kilometres and a bonus of €1 294 for each railway undertaking.

The bonuses paid out under the NDTAC schemes between 2016 and 2018 cover on average around 60% of the retrofitting costs and around 40% of retrofitting and additional operational costs combined. For a 6-year NDTAC scheme, the minimum bonus level set in the Implementing Regulation provides ample cover for retrofitting costs, but is lower than the additional operational costs per axle-kilometre. Industry stakeholders have not identified unnecessary regulatory burdens.

Relevance

The general objectives of the Implementing Regulation remain relevant: to contribute to the reduction of rail-freight noise and to maintain the competitiveness of the rail-freight sector. In general, rail sector stakeholders recognise that noise pollution is a problem for rail freight. They accept that operators need to contribute to the additional cost in combatting this issue. The public are disturbed by rail noise and this raises concerns about their acceptance of the rail freight sector. Stakeholders generally agree that it is still relevant in today’s market to reduce risks to the competitiveness of the rail freight sector. According to the stakeholders concerned, the method set out in the Implementing Regulation to calculate the level of bonuses properly reflects sources of cost and allows infrastructure managers some flexibility.

Financial sustainability

The existing NDTAC schemes have proven to be financially sustainable both for Germany that has introduced a malus, and for Austria and The Netherlands, which use government funding to finance the bonuses. With the introduction of ‘quieter’ routes in December 2024 (see below), the effects of the Implementing Regulation are highly likely to last. There will be more silent freight wagons among the stock and these wagons will be used more frequently.

Coherence

The Implementing Regulation’s objectives and functioning are consistent with the other EU rail noise policy tools, with no overlaps, divergence or contradictions. Under the Implementing Regulation, which aims to speed up retrofitting, NDTAC schemes must end by December 2021. However, in 2019 the revised Technical Specification for Interoperability on ‘Noise’[4] (NOI TSI) introduced the concept of ‘quieter routes’ to be launched by December 2024. This means that on railway lines with a high level of freight traffic 'noisy' freight wagons are no longer able to operate. Stakeholders recognise that a large number of freight wagons still need to be retrofitted in the run-up to December 2024. Therefore, the final date by which NDTAC schemes should end, as prescribed by the Implementing Regulation (31 December 2021), might need to be reconsidered. Apart from some differences, the three national schemes studied are consistent with each other.

[4] Commission Regulation (EU) No 1304/2014 of 26 November 2014 on the technical specification for interoperability relating to the subsystem ‘rolling stock — noise’ amending Decision 2008/232/EC and repealing Decision 2011/229/EU as amended by Commission Implementing Regulation (EU) 2019/774.

Summary of the analysis of the evaluation criterion for EU added value

The Implementing Regulation has aligned two existing schemes (Germany's scheme and the Netherlands' scheme) and a scheme recently introduced in Austria (it also helped Czechia to introduce a scheme but this was after the evaluation period). The Implementing Regulation has therefore, albeit to a limited extent, prevented diverging national schemes from developing. This is especially important considering that around 50% of rail freight in Europe crosses borders.

3 Conclusions

The impact of the Implementing Regulation on reducing rail noise has been positive, but rather limited. After the adoption of the Implementing Regulation, only two Member States have introduced a new NDTAC scheme, one of which started after the evaluation period. It is not possible to determine whether these two schemes would also have been implemented in the absence of the Implementing Regulation. Moreover, the impact of the Implementing Regulation is difficult to identify in the presence of other (EU and national) initiatives incentivising the retrofitting.

One of the aspects limiting the effectiveness of the Implementing Regulation is the absence of an explicit mechanism for passing on the bonus from RUs to WKs. This is necessary if the latter bear the costs of retrofitting and are not the same entity as the former.

Implementation costs for authorities and industry are low. The bonus payments are more than enough to cover the retrofitting costs. However, these bonus payments have been set by the implementing Member States at too low a level to also fully cover increased operational costs.

The general objectives of the Implementing Regulation remain relevant: to contribute to the reduction of rail-freight noise and to maintain the competitiveness of the rail-freight sector. Furthermore, in the run-up to the coming into force of 'quieter routes' from December 2024[5], there is still a need to provide financial support to retrofit existing noisy wagons. In this context, the obligatory end date of the NDTAC schemes (i.e. 31 December 2021 as specified in Article 3(2)), which was meant to speed up retrofitting, may need to be reconsidered – and possibly extended – to allow Austria, Czechia and the Netherlands to prolong their schemes and to encourage other Member States to introduce a scheme.

The Implementing Regulation is in line with the overall EU framework and mechanisms that aim to reduce rail noise. The EU's many initiatives to help reduce rail noise at the source through economic, financial and technical measures remain valid. The effects of the Implementing Regulation, having led to an increased number of retrofitted wagons, are likely to last, even after the expiry of the NDTAC schemes.

The Implementing Regulation helped to avoid a patchwork of national schemes that could have led to higher transaction costs and an uneven playing field for market competitors. However, the voluntary basis of the Implementing Regulation means that the added value of the Implementing Regulation has a limited effect in directly incentivising Member States to adopt an NDTAC scheme. Some Member States have even introduced State Aid schemes instead of NDTAC schemes.

[5] The TSI Noise revision of 2019 introduces the concept of 'quieter routes': railways with intense freight traffic on which, from December 2024, only silent freight wagons may be operated.

Based on this evaluation, the Commission will assess whether to give Member States the opportunity to extend the validity of their NDTAC schemes beyond 31 December 2021 (or to introduce a scheme after that date) or to repeal the Implementing Regulation.