Status of European Passenger Rail Market Liberalisation - 2021

A review opportunities and risks arising from the Fourth Package and external market factors

April 2021
The rising tide of rail liberalisation across Europe will generate market entry opportunities for new and existing transport operators provided the risks of the post-pandemic railway are overcome.

The European Union’s (EU) Fourth Railway package is a series of legislative texts that build on previous packages to continue the progress of liberalisation of the railway markets in Europe, split into two ‘pillars’.

- The Commercial pillar sets out the timeframe and conditions for countries to open up their domestic passenger markets to competition by 25 December 2023; and
- The Technical Pillar aims to reduce administrative barriers to entry, with the ERA able to centrally authorise licencing, as well as continue to bring together common standards.

The progress of liberalisation and composition of rail passenger delivery models within Europe continues to differ substantially. Countries have adopted various approaches to liberalisation that suit their unique characteristics and governments’ political agendas.

On page 5 we present a Liberalisation Map that provides a high level overview of the make-up of passenger markets in major European countries and their liberalisation status (noting the market is complex and views are inevitably subjective). Around Europe, the degree of market liberalisation varies, but importantly we see that it is changing; early promoters of competition – namely the UK, Germany and Sweden who all kickstarted liberalisation in the 1990s – are no longer alone, with other countries playing catch up in light of the incoming regulatory changes.

Opportunities are set to exist where they once were absent; Spain and France are opening up their respective domestic rail markets to competition, with both countries having geographies that are well suited to accommodate a mix of long-distance high-speed rail alongside regional and commuter markets around major cities; prospective international open-access operators may also benefit from reduced barriers through the centralising of certification and licencing within the ERA, though start-up costs remain.

As per almost all other industries, the rail industry is reeling from the impact of the global pandemic. Operator revenues have been decimated and companies have been forced to scale back or discontinue operations, whilst previously profitable operators now require state financial support. Governments have responded with some measures, such as removing or discounting track access fees, but more support may be needed, particularly if new entrants are to be encouraged. These impacts and the uncertain market conditions present a serious risk to the success of the Fourth Package.

However, the resulting change in market landscape will cause new and previously unforeseen opportunities to emerge. As economies begin to ramp up and travel corridors open, the rail industry is uniquely placed to take advantage of its environmental credentials and take market share from air. This trend was already evident in Sweden, and shows signs of spreading. Some governments are even forcing the issue to make this change happen faster – France is moving to ban domestic flights where rail travel is available under a 2.5 hour threshold. This is one example of several opportunities that could help speed up post-pandemic rail recovery.
The Fourth Railway Package

The Fourth Package comes fully into effect on 25 December 2023. From this point onwards, all rail public service contracts in the EU must be competitively tendered.

The European Union’s (EU) Fourth Railway package is a series of legislative texts that build on previous packages to continue the progress of liberalisation of the railway markets in Europe.

Figure: The path to liberalisation of the EU’s railways has been over 20 years in the making. Emerging delivery models first appeared in the late 80s and early 90s. For example, in 1988, Sweden became the first country to separate infrastructure from operations and to start competitive tendering of non-commercial services.

As shown in the figure above, the Fourth Railway Package is split into two ‘pillars’:

1. **The Market Pillar** - The legislation outlines proposals for the opening of the market for rail domestic passenger transport services, via its establishment of the principle of competitive tendering of rail public service contracts. Whilst this principle has fully applied since December 2019, from 25 December 2023 it will no longer be possible for government and authorities to unconditionally award public service contracts in rail. The idea is that until then, EU member states gradually introduce competitive tendering into rail transport
markets. The reality is more complex than the principle – the possible variations for each country, which all contain their own unique geographical and infrastructure characteristics, are vast.

2. **The Technical Pillar** – Interoperability and harmonising of standards has been a long-standing aim of the EU. The Technical Pillar continues this through with the increased role of the European Railway Agency (ERA) – a key body in the drive for interoperability, authoring (updating and monitoring) the Technical Specifications for Interoperability (TSI). The ERA now processes and issues vehicle authorisations for safety certificates – helping take one step further in reducing administrative barriers to entry creating a for prospective railway undertakings.

### Status of Liberalisation

**Levels of liberalisation and passenger rail delivery models differ substantially across Europe. Countries have adopted various approaches to implementing liberalisation to suit their unique characteristics and the political agendas of governments.**

Our [Liberalisation Map](#) overleaf outlines our overall view of the make-up of major European passenger markets and their liberalisation status (noting the market is complex and views are inevitably subjective). Around Europe, the degree of market liberalisation varies, but importantly is changing. Early promoters of competition – namely the UK, Germany and Sweden who all kickstarted liberalisation in the 1990s – are no longer alone, with EU Member States playing catch up in light of the incoming regulatory changes.

Within the remainder of this paper, we discuss the following observations that we have gleaned from the Liberalisation Map, plus we have considered the impact of external market factors:

- **Domestic opportunities arising from the Fourth Package** – Spain and France present opportunities to prospective railway undertakings, in markets that are substantial and currently dominated by state-owned incumbents.

- **International opportunities arising from the Fourth Package** – The international open-access market is large and dominated by (joint ventures between) state-owned incumbents. The Fourth Package Technical Pillar is designed to help railway undertakings enter this market by simplifying licencing and harmonising standards.

- **Opportunities arising from external market factors** – The impact of the global pandemic on the rail market is damaging (as it is to many industries) and operators will need government support to survive. Without sufficient supply, the success of the Fourth package could be dampened. However, the impact of such a significant change to market factors will mean that unforeseen opportunities will exist within certain market segments. We identify and explore three, noting there will be others.
An overview of the status of railway liberalisation in Europe

Below shows our Liberalisation Map that outlines our overall view of the make-up of major European passenger markets and the liberalisation status of each country, including the presence of Open Access operators which give an indication of the level of pure competition within markets.

The overall picture of rail liberalisation shows potential for substantial progress over the coming years. Domestically, the pace of rail liberalisation is changing most in France and Spain, where significant and established markets are being opened. These countries are close behind Norway, which is pathway through tendering five packages of rail services on its network. Internationally, there is opportunity for competition to enter the market that has been grown effectively by Eurostar, Thalys and TGV Lyria (who between them serve UK, France, Belgium, Netherlands, Germany and Switzerland). Therefore most countries now (or will soon) embrace market competition in some form.

Delivery models continue to vary, in part due to the unique characteristics and political agendas of Member States. However, market liberalisation can take two primary forms, and which our RAG assessment is informed upon:

1. Competition to enter markets – but after which competition within that segment is contained. Many countries embrace this as a minimum, and this model tends to apply in smaller or less populated countries (e.g. The Netherlands, Norway).
2. Competition within markets – where operators compete with each other directly on corridors and where full competition is said to have been achieved. Despite a state-owned incumbent holding the market share Sweden is the best example of this, with open access operators competing against Statens Järnvägar across multiple corridors.

### Market Liberalisation RAG

<table>
<thead>
<tr>
<th>Not liberalised</th>
<th>Partially liberalised</th>
<th>Fully liberalised</th>
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<tbody>
<tr>
<td>- No real evidence of liberalisation</td>
<td>- with limitations e.g. competition to enter, but attractive market-segments protected for incumbent</td>
<td>- multiple ways for operators to compete to enter market and compete with one another</td>
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### Liberalisation Map

#### Italy
- State-owned operator Trenitalia holds market share; Italy entered market in 2011 – now established open access inter-city competitor Trenitalia, to the benefit of passengers.

#### Germany
- State-owned operator Deutsche Bahn (DB) holds most market share. Unlike other highly liberalised markets (UK and Sweden), much of the network remains vertically integrated. Long-distance competition between DB and specific open access operators (e.g. west.de) is evident.
- Complex regional market. A mix of private operators exist – including subsidiaries of well-known larger companies (e.g. Transdev, owner of SCBF) – as well as operators owned by regional states (e.g. HLB) or a mix of public state and private enterprises (e.g. DBBAG - a joint venture holding company between Hamburg State and LHV investment firm International Public Partnerships Limited).

#### Switzerland
- National operator SBB (Suisse Federal Railways) operates on most routes.
- Some regional express routes have been awarded to other operators but there is no competition on any route.
- Long-distance concessions were opened to competition in 2019. A single operator serves most routes but where there is competition, tickets are sold for the route not the service.

#### Austria
- State-owned operator Austrian Federal Railways (ÖBB) holds most market share, particularly inter-city and long-distance; ÖBB also provides inter-city competition on the western railway of Austria between Salzburg and Vienna.

#### Czech Republic
- State-owned operator Czech Railways (ČD) holds market share, though competes on inter-city routes with open access operators LED Express and RegioJet.
- CD previously accused of predatory pricing to hinder open access competition - status ongoing with European Commission in addition to CD, A Albula and Railnet provide regional services.

#### Sweden
- State-owned operator Statens Järnvägar (SJ) holds most market share, competing with established open access operator’s (MTIRK, Snälltåget at present; FlixTrain due to enter in May 2021)
- Night train service between Malmo and Brussels (via Denmark) under tender for 2022 start
- 2019 to 2020 – 2029 transport commitment to improved existing / delivering new rail infrastructure.

#### Poland
- State-owned operator Polish State Railways (PMP) and various authority-owned operators (e.g. POLSREG) dominate market.
- International open access through LED Express (connecting with Czech Republic and Slovakia). RegioJet due to enter same routes, offering a night-time connection.
- Further plans from RegioJet to compete with PKP in Warsaw – Krakow, status unknown.

#### Belgium / Netherlands
- State-owned operators SNCB / Nederlandse Spoorwegen (NS) dominate each market.
- International open access operators use networks. Other competitors in market via regional concessions in the Netherlands.
- Small geography size means neither network is necessarily suited to open access competition.

#### France
- State-owned operator SNCF dominates market.
- Market liberalisation actively underway since December 2019; FlixTrain were due to enter as an open access operator in 2021, but withdrew plans citing track access costs.

#### Germany
- State-owned operator Deutsche Bahn (DB) holds most market share. Unlike other highly liberalised markets (UK and Sweden), much of the network remains vertically integrated.
- Long-distance competition between DB and specific open access operators (e.g. west.de) is evident.
- Complex regional market. A mix of private operators exist – including subsidiaries of well-known larger companies (e.g. Transdev, owner of SCBF) – as well as operators owned by regional states (e.g. HLB) or a mix of public state and private enterprises (e.g. DBBAG - a joint venture holding company between Hamburg State and LHV investment firm International Public Partnerships Limited).

#### Spain
- Network is unusual in that there are three main gauges.
- State-owned operators (mainly Renfe) dominate market, along with other regional state-owned operators.
- High-speed corridors competed to competition (Renfe will compete with entrants LGV Atlantique / Air Nostrum) and ADIF España (SACE).
- Further liberalisation introduced at medium-frequency level services, with significant restrictions.

#### United Kingdom
- Complex network of open access inter-city operators competing against inter-city and regional franchises. State-owned operators only used in event of market failure (Operator of Last Resort). Franchises have had revenue risk absorbed by DfT – future operating model not clear post Covid-19.
- Known plans for various open access operators to enter market (e.g. Grand Union) – status unclear due to pandemic and Williams Review.

### Open Access Operator Key

- Domestic – Open Access
- International – Open Access

#### Eurostar
- UK – France – Belgium – Netherlands (SNCB, Caisse de dépôt et placement du Québec, Hermes Infrastructure)

#### Thalys
- France – Belgium – Netherlands (SNCF, SNCB)

#### TGV Lyria
- France – Switzerland (SNCB, SNCF)

#### Leo Express
- Connects Czech Republic, with Poland and Slovakia (officially owned – but subject of a 50% share acquisition from Renfe)

#### Excel
- Polish State Railways (PKP)

#### ÖBB
- Austrian Federal Railways (ÖBB)

#### Railjet
- Railroad company in Austria, belonging to ÖBB

#### FlixTrain
- German start-up, owned by FlixTrain Inc.

#### WAB
- Swiss start-up, owned by WAB AG

#### State Railways
- Czech Republic, Slovakia, subsidiary of State Agency

#### DSB
- Danish state railway, subsidiary of DSB

#### SJ
- Swedish state railway, subsidiary of MTR

#### traditional operators
- DB (DB)
- SNCF
- SNCB
- NS
- NSB
- PKP
- ÖBB

#### Open Access operators
- Grand Union
- SNCB
- NSB
- DBBAG
- Italo
- TGV Lyria
- FlixTrain
- WAB
- MTR
- SJ

#### Closed Access operators
- State-owned operators (mainly Renfe, DB, SJ, NS, NSB, PKP, ÖBB)

#### International operators
- Eurostar
- Thalys
- TGV Lyria
- Leo Express
- FlixTrain
- State Railways
Domestic opportunities arising from the Fourth Package

Spain and France present immediate opportunities for prospective transport operators in largely untapped, (though untested) and substantial markets. The individual approach taken by each shows that liberalisation delivery models remain as varying as ever.

France’s current national railway services operator, SNCF, holds a monopoly over national and regional passenger services. Since December 2020, open-access entry into the high-speed market has been permitted. There has been heavy interest from prospective Open Access operators:

- The German open access operator FlixTrain was due to enter five inter-city routes in 2021 – going up against SNCF and its low-cost subsidiary OUIGO – but withdrew plans citing track access costs (although the impact of the ongoing Covid-19 pandemic presents added complications). (1)
- Railcoop, a French-based not for profit co-operative is looking to target province-province services, starting with the launch of a Bordeaux – Lyon service via Limoges in summer 2022 (the service was abolished by SNCF in 2014). (2)

At regional market levels (TET / TER), authorities are preparing for the December 2023 deadline (the date by which rail public service contracts must be competitively tendered). Some authorities have already embraced this new approach – Provence-Alpes-Côte d’Azur (PACA) is procuring a 10-year concession for two groups of local services (approximately a third of total TER services in the region), to commence in 2025. Four other regions have followed suit. Tendering has presented complications at times. In December 2020, the pilot tender process for the operation of inter-city services for Nantes-Lyon and Nantes-Bordeaux was declared void following SNCF being the only remaining bidder after Arriva, EuroTrail and Transdev all pulled out. The cause of these withdrawals is not fully understood, though one theory is the level of risk required for rolling stock maintenance – would be operators faced the choice of relying on SNCF to use its existing Nantes depot, or having to build a new facility itself. This is evidence of an ongoing requirement for authorities to structure their tenders in such a way that risk is allocated appropriately, to obtain the full benefits of competition. (3)

Spain has also recently introduced measures to enable competition against the state-owned Renfe. The Spanish infrastructure manager, ADIF, has tendered 70% of available high-speed capacity via three packages (each of individual size and operating conditions) of 10-year framework agreements to enable railway undertakings to operate on the Madrid-Barcelona, Madrid-Valencia, Madrid-Seville high-speed corridors. From 2022, Renfe – winner of package A (60% of tendered capacity) – will now compete with the two other successful bidders – ISLA (a joint venture between Trenitalia and subsidiary of Air Nostrum (Iberia) and SNCF’s OUIGO España – on the routes. The remaining 30% of capacity remains available for new entrants. (4)

Private companies are also able to submit proposals to operate medium-distance / local services, subject to approval from the competition watchdog – the requirements of which include economic impact assessments which demonstrate that there will be less than 2% impact to Renfe’s income as the contractor to provide medium distance and local services. This restriction
effectively means that prospective operators are challenged to find new routes not served by Renfe. Conversely, the wording of this restriction doesn’t provide the operator itself with protection if it does find a commercially viable route. With the backdrop of the pandemic adding so much uncertainty, it is hard to see how an operator would approach such a market condition with confidence.

Case study - The benefits of competition in Italy

The impact of rail liberalisation in Italy is a commonly used example of the benefits of open access competition. Since Italo entered the high-speed market in 2012 against the state incumbent Trenitalia, demand increased by 69% between 2011 and 2018, whilst revenues increased by 47%. Within this time period, new high-speed infrastructure delivery was limited, but increased frequencies and connections delivered improved perceived journey times. With load factors remaining broadly the same, passengers were the primary benefactors, gaining lower prices for the same level of comfort, at an increased frequency[5].

International opportunities arising from the Fourth Package

The Technical Pillar increases the opportunity for private international operators to compete with established state-owned international open-access operators. However, the complexity of market entry means barriers remain.

There are five major international open-access operators in Europe:

- **Eurostar** – connecting UK-France-Belgium-Netherlands. Owned by SNCF (55%), Caisse de dépôt et placement du Québec (30%), Hermes Infrastructure (10%), SNCB (5%). Annual demand approx. 11.1m pax (2019)(6)
- **Thalys** – connecting France – Belgium – Netherlands/Germany; owned by SNCF (60%) / SNCB (40%). Annual demand approx. 7.9m pax (2019)(7)
- **TGV Lyria** – connecting France-Switzerland; owned by SNCF (74%) / Swiss Federal Railways (26%). Annual demand approx. 4.5m pax (2019)(8)
- **Leo Express** – connecting the Czech Republic with Poland and Slovakia. Wholly owned by Leo Express, but currently subject to a 50% share acquisition from Spanish state-owned operator, Renfe. Annual demand approx. 1.8m pax (2018)(9)
- **RegioJet** – connecting the Czech Republic with Slovakia and Austria. Wholly owned by Student Agency holding. Annual demand approx. 5.9m pax (international intercity only, 2018)(9)

By scale, Eurostar and Thalys are the largest international open-access operators. Thalys and Eurostar were due to be merged this year in a project codenamed *Project Green Speed*, but which has since been put on hold due to the ongoing impacts caused by the pandemic. If it does go ahead, it would produce (by far) the largest international open-access operator, with a monopoly...
over much of the international rail market in north-western Europe. The success and operating scale (Eurostar offers 15 weekday London–Paris services alone) has demonstrated that this market is now large enough to accommodate competition, which we consider to be a key test of the EU’s drive for market liberalisation. (Note: based on 2019 data, a combined Eurostar–Thalys operator would carry nearly 18m passengers, which would be almost the size of Alitalia, and place it within the top 14 largest European air carriers in terms of size). However, not accounting for Covid-19, barriers still need to be overcome by prospective international operators:

- **Operating licence** – Being able to operate in multiple countries requires multiple licences. One could hypothesise that it is no surprise that Eurostar, Thalys and TGV Lyria are owned predominantly by state-owned operators, which all would provide an apt understanding of the regulatory requirements to obtain relevant certifications and licences. In future this barrier could be reduced through the Fourth package and the resulting increased powers of the ERA to centrally grant safety and licencing certifications – but in practice, these barriers currently remain.

- **Track access** – Availability of the right train paths is key to any new operator entry. Track access is ultimately a constrained resource – much more so than flight paths – but multiple railway undertakings operation is needed in order to enable genuine competition. The process to obtain track access is complex, however. All countries have Infrastructure Managers (IM) who need to be engaged with, and all have unique (and complex) approaches to charging railway undertakings for access to their rail infrastructure. Accessing multiple countries and dealing with multiple IMs adds to sizeable market entry costs. For example, for an operator to run a service between London to Paris, three IMs must be approached and negotiated with: High Speed 1 limited (London to Channel Tunnel); Euro Tunnel (Channel Tunnel); SNCF Reseau (Channel Tunnel to Paris). All have their own different and sophisticated approaches to charging operators for use of infrastructure.

In short, the potential benefits of introducing competition to the international open-access markets could be large, particularly in north-western Europe which has a demonstrably large market that is dominated by two (perhaps soon to be one) international open-access operators that are largely owned by the state-owned enterprises in which they operate services. The EU Fourth Package has made it easier for prospective operators to enter, but the set-up costs and complexities remain high for entrants to navigate their way through, to then compete with companies as established as the likes of Eurostar.
Opportunities arising from external market factors

Without government support, the impact of Covid-19 threatens the success of the EU Fourth Package. A mix of public and private sector risk-sharing is required for rail to recover effectively.

The impacts of the global pandemic are as daunting as they are well documented. Entire industries are facing unprecedented challenges and global economies will remain uncertain for years to come – governments are under pressure to simultaneously balance financial books and get economies going. The pandemic has decimated rail demand and revenues, leaving many operators exposed to market pressures. Significant intervention will be required from governments to help kick-start rail travel.

Temporary EU legislation was introduced in June 2020 to give Infrastructure Managers more flexibility in how they set out charges to freight and passenger rail undertakings. France has since frozen track access charges over 2020 charges and will keep them at half the usual price for 2021, to help lower the cost-base operators face. Other countries in Europe are following suit. In the UK, all franchise agreements have had revenue risk reallocated to the government, and contracts moved to a management agreement approach (cost + margin) – ensuring that operations can be ramped up as required by central government.

The wider economic conditions are leading to some controversy. For example, SNCF has announced that €585m in state aid is required to keep Eurostar solvent. At the same time, SNCF has reportedly spent 600m on OUIGO España. These two events should not necessarily be connected in the way that they have, but it emphasises the scrutiny in which bailouts and support will be considered. (10)

More government initiatives will be required across Europe to help rail companies survive the effects of the pandemic and to ensure that rail supply is to be ready to meet any potential bounce back in demand. Whilst the scale and speed of recovery remain unknown, the cost of allowing rail companies to fail or exit the markets entirely would leave any opportunities for recovery to be foregone.

Underlying opportunities exist for businesses that can spot them. Several markets face a change of competitive landscape, either through our own behaviours or a change in delivery model. We have identified three examples:

- The drop in aviation demand (which has fared even worse rail with countries closing their borders) coincides with a time of ongoing focus in our environmental behaviours. There is an opportunity for (more sustainable) rail to take significant market share from aviation, both domestically and internationally. Even before the pandemic this trend was present in Sweden – air passenger numbers dropped 4% over 2019 in Sweden, largely driven by a decline in domestic traffic (which decreased for the second year in a row, dropping by 9%) as a result of the ‘flight-shaming’ (Flygskam) movement. This movement was starting to show traction in other major economies like Germany before the pandemic arrived. (11)
• The Alliance of Rail New Entrants (ALLRAIL) – a European non-profit association of independent passenger rail companies – has called for any Eurostar government bailout to have conditions accompany the terms that facilitate cross-Channel competition e.g. requiring Eurostar to make surplus trainsets available to prospective competitors rather than scrapping them. Whether such a condition could be applied is another matter, but the opportunity for government is two-fold: safeguard the future of a critical rail provider and market leader, whilst simultaneously helping to facilitate market conditions that actively drive the ethos of the Fourth Railway Package. [12]

• In the UK the reversion of policy from franchises to management agreements alters the incentives of market players. The shift of revenue risk from private to public sector leaves TOCs commercially focused on efficient cost delivery and good performance. However, the government has continuously insisted that the private sector will retain a key role in the future delivery of the UK railways. One opportunity the government could explore would to better encourage and incentivise open access operation, which to date has been largely subdued under the franchising model (in part down to the understandable drive from TOCs to protect market share they paid premiums to exploit). In doing so, we may see the emergence of more open access operators, who can take some of the burden and financial risks away from government, and use their commercial expertise to increase revenues and speed up the post-pandemic recovery.

Air-travel continued – Governments are starting to intervene to push environmental change

Even as this piece has been finalised the situation with air travel continues to evolve. French lawmakers have voted to ban short-haul internal flights where train alternatives (journeys over under 2.5 hours) exist. In the grand scheme of things, the overall number of routes that will be impacted is small. The stated intent however – to force a change in behaviours through direct market intervention – is extraordinary. In theory, this will present knock-on challenges. In a purely private market, one sector will take advantage of regulatory change in another – in this case, one would expect it to materialise in the form of rail companies potentially charging higher fares. In our view, a focus will be needed on ensuring that passengers are not monetarily disadvantaged by this intervention, given that market supply is being forcibly reduced.
References


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[7]. Thalys, https://www.thalys.com/be/en/about-thalys/prnational-railway-strike-in-france-thalys-traffic-information-until-7-july#:~:text=In%202019%2C%20Thalys%20passed%20the,3h19%20to%20go%20to%20Amsterdam


Wider sources/reports

In addition to the direct sources above, a list of further reports and websites that have informed or aided this piece are below:

- EU Commission, Sixth report on monitoring development of the rail market (2019)
- United Nations, Railway Reform in ECE Region (2018)
- International Railway Journal
- Railway Gazzette
- Railcolornews
- Globalrailwayreview
- Businesstraveller
- http://www.railfaneurope.net/
- http://www.wikipedia.org
- http://www.SNCF.com
- http://www.renfe.com
- www.countryflags.com
Our Company

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