

## Press release

### Monopolies Commission presents 7<sup>th</sup> Sector Report on German railway markets „Quality and Competition on the Railway“

- Railway sector suffers from poor punctuality and a poor condition of the network infrastructure.
- Monopolies Commission recommends to make originators liable for delays (fault-based liability) and to revise regulation in order to enhance punctuality and to foster a quality-oriented modernization of the infrastructure.
- Competition is an essential driver of quality enhancements. Strengthening competition requires to effectively decrease track access charges.

The German railway market suffers from quality issues, particularly documented by a recent bad punctuality performance of railway operations. For example, in the past year, over one fourth of all long-distance trains were delayed by more than five minutes. The bad condition of the infrastructure accompanied by an increasing number of construction sites is likely to exacerbate the situation. The political goal of increasing traffic on the railway is likely to fail. “Strengthening the railway’s competitiveness requires not only increasing infrastructure investments, but, in particular, revising the regulatory framework. Introducing fault-based liability for delays, improving quality incentives in the regulatory framework and stifling competition in the railway market would lead to significant enhancements in infrastructure quality and punctuality of railway operations”, said the Chairman of the Monopolies Commission, Professor Achim Wambach.

**Introducing fault-based liability for delays.** Those who are responsible for delays should be made liable. This particularly applies to the railway network operator DB Netz AG, which currently cannot be made liable for any damage that it caused by itself. All market participants are likely to be incentivized to contribute to improved punctuality with a system of compensation payments between infrastructure and train operators.

**Stronger incentives for infrastructure maintenance.** The renewal of the contractual agreement between Deutsche Bahn AG and the federal government on infrastructure financing (Leistungs- und Finanzierungsvereinbarung), which is currently negotiated, should entail stronger incentives for quality improvements. For example, public funds are currently granted by the government to DB Netz AG as a lump sum payment. The monitoring of performance relies on contractually agreed quality indicators. However, these indicators fail to provide a precise picture of the true quality of the railway infrastructure. This raises concerns about infrastructure investments not being made for the purpose of sustainable and cost-efficient maintenance. Therefore, new quality indicators are needed, allowing for an exact assessment of the quality of the infrastructure network.

**Strengthening competition.** Besides the regulatory framework for quality, competition is a crucial driver of incentives for train operators to improve the quality of their service. However, competition in the German railway market is still impaired for a variety of reasons. One particular example is the

#### Monopolkommission

Kurt-Schumacher-Str. 8 · 53113 Bonn · Tel +49.228.338882-30 · vorsitzender@monopolkommission.bund.de  
www.monopolkommission.de

market for long distance rail travel, where the market share of competitors is below one percent. One reason for that, among others, is that track access charges are relatively high. The new railway regulation act brought along a revised regulation that intends to generate incentives for the network operator to reduce costs. However, the new regulation is not tapping the full potential of realizing efficiency gains which should be passed on to consumers in form of lower track access charges. For example, to reduce costs, and thus track access charges, it is necessary that the estimation of the cost of equity for DB Netz AG is based on the company's true risk.

**Vertical separation of infrastructure and rail operators.** Competition on the railway requires an independent infrastructure operator. Therefore, the vertical separation of the infrastructure from operations within the DB-group should be further fostered.

The complete Special Report is accessible at the Monopolies Commission's [home page](#) as of now.

The Monopolies Commission is a permanent, independent expert committee which advises the German government and legislature in the areas of competition policy-making, competition law and regulation. One of its statutory mandates is the drafting of a Special Report on the development of competition on the German railway markets. The Monopolies Commission has five Members appointed by the Federal President based on a proposal of the German government. Prof. Achim Wambach, Ph.D., is the chairman of the Monopolies Commission.