



Workshop on Rail Transport Regulation

Aims, models and powers of rail regulators
The view of Deutsche Bahn

Deutsche Bahn AG

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Florence, 15 November 2010

Agenda

Market development

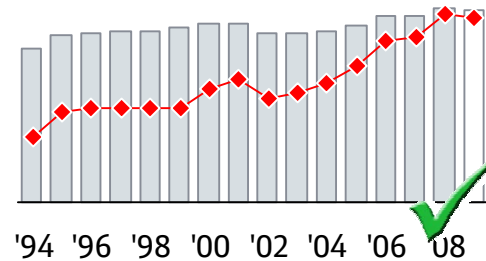
Discussing the new legal framework

Limits of regulation

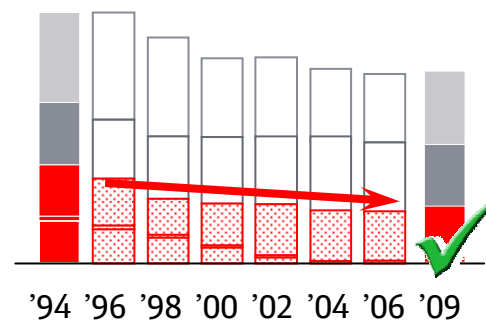
Development in Germany shows: Liberalisation and its regulatory protection are crucial for competition – not structural questions

Aims of the rail reform

More traffic to the rails



Lower the burden for the public purse



Instruments of the rail reform

Implementing a holding company structure

- Merger of Bundesbahn and Reichsbahn – founding Deutsche Bahn AG
- Separating commercial (transport, track infrastructure, related business activities) and public sectors (sovereign tasks, dept management, human resources management)

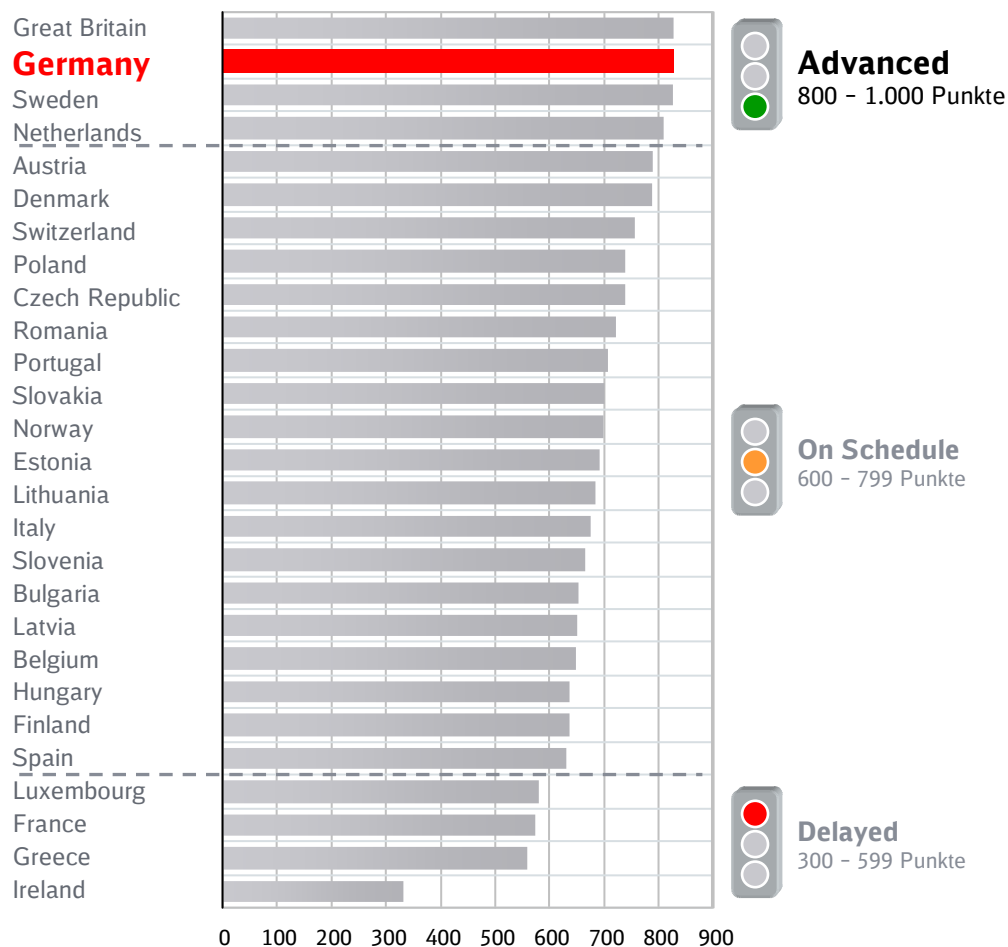
Rail competition

Creating a level playing field with other transport modes

(Investments in infrastructure, taxes, external costs)

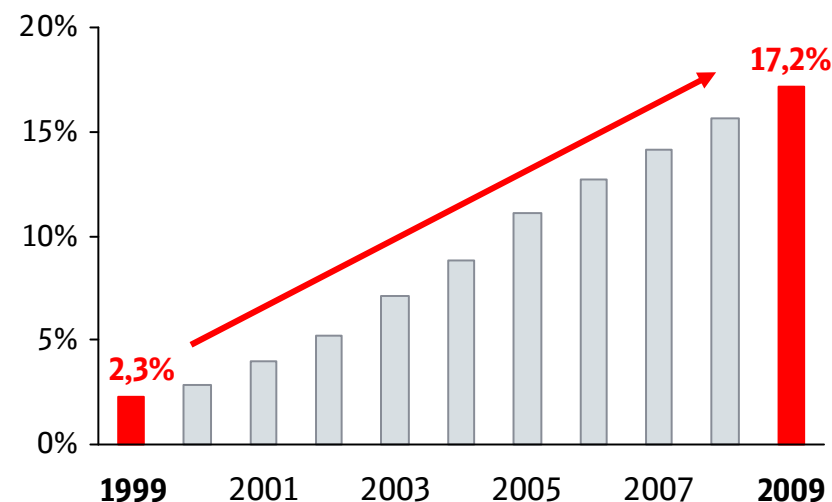
The framework conditions for competition in Germany have produced good results

IBM Rail Liberalisation Index 2007



Working Competition

Operating performance of non-Group companies (Million train-path km)

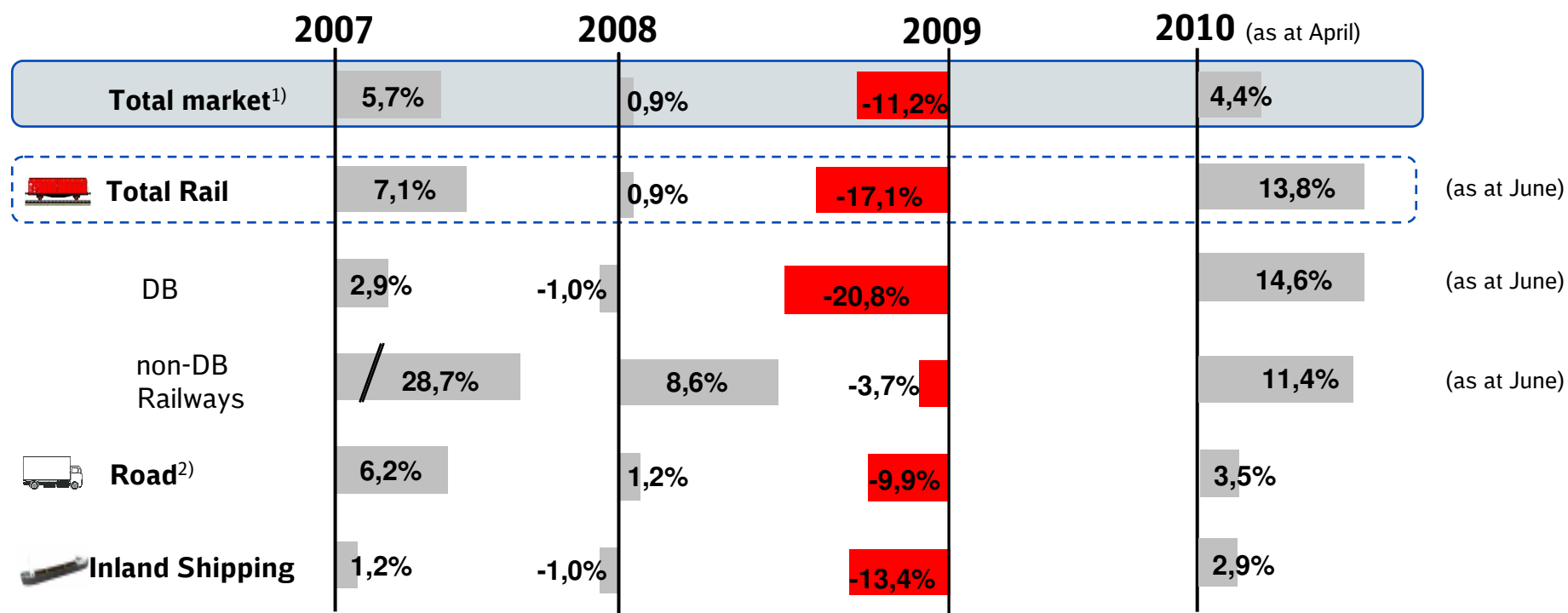


- Increasing number of competitive tenders for long-term regional passenger services
- Market share of non-DB Group railways is growing rapidly
- As of Dec 31, 2009 323 non-DB Group railways operated on the rail infrastructure of DB Netz AG
- There are no comparable levels of competition in the origin countries of our main competitors

After a drastic slump across all transport modes in 2009, the German freight market recovers

Freight transport in Germany

(year-on-year change in per cent; basis: traffic performance)



1) Total market: rail, road, inland shipping and long-distance pipelines

2) Road: incl. regional transport by German trucks, excl. cabotage transports by foreign trucks in Germany

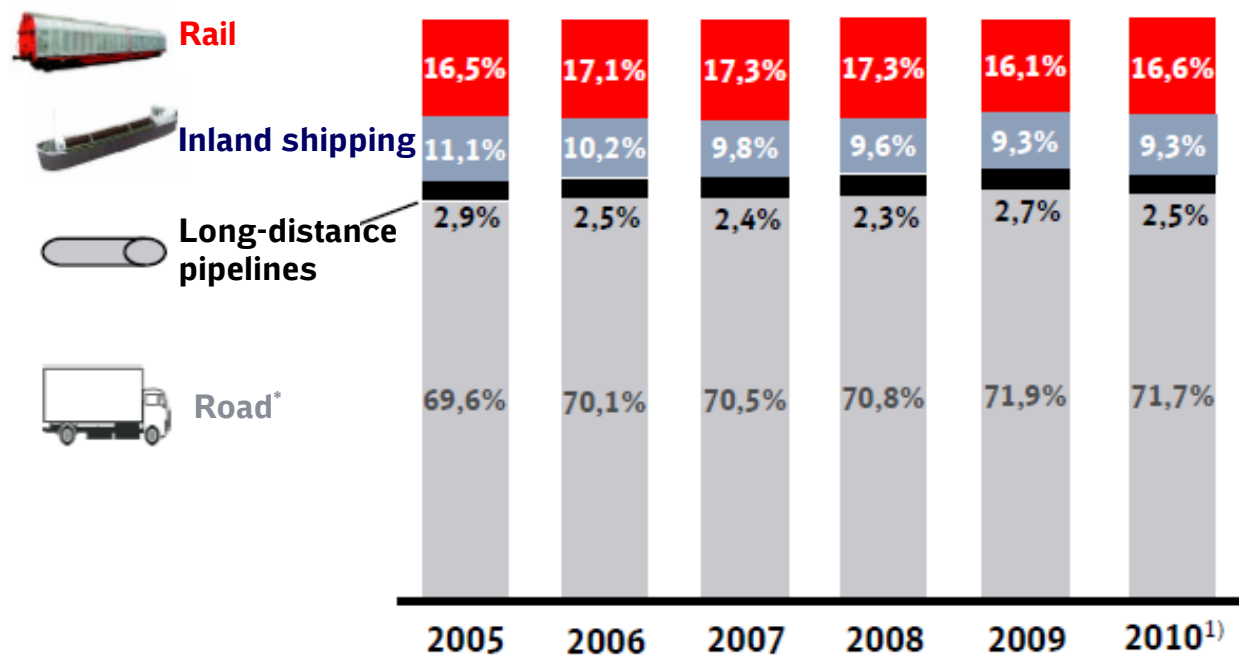
3) 2009 = provisional figures

Source: Federal Statistical Office and DB AG

2009 rail lost the market shares it had gained in the freight market in previous years

Modal split trend for freight transport in Germany

(in per cent, basis billion t-km)



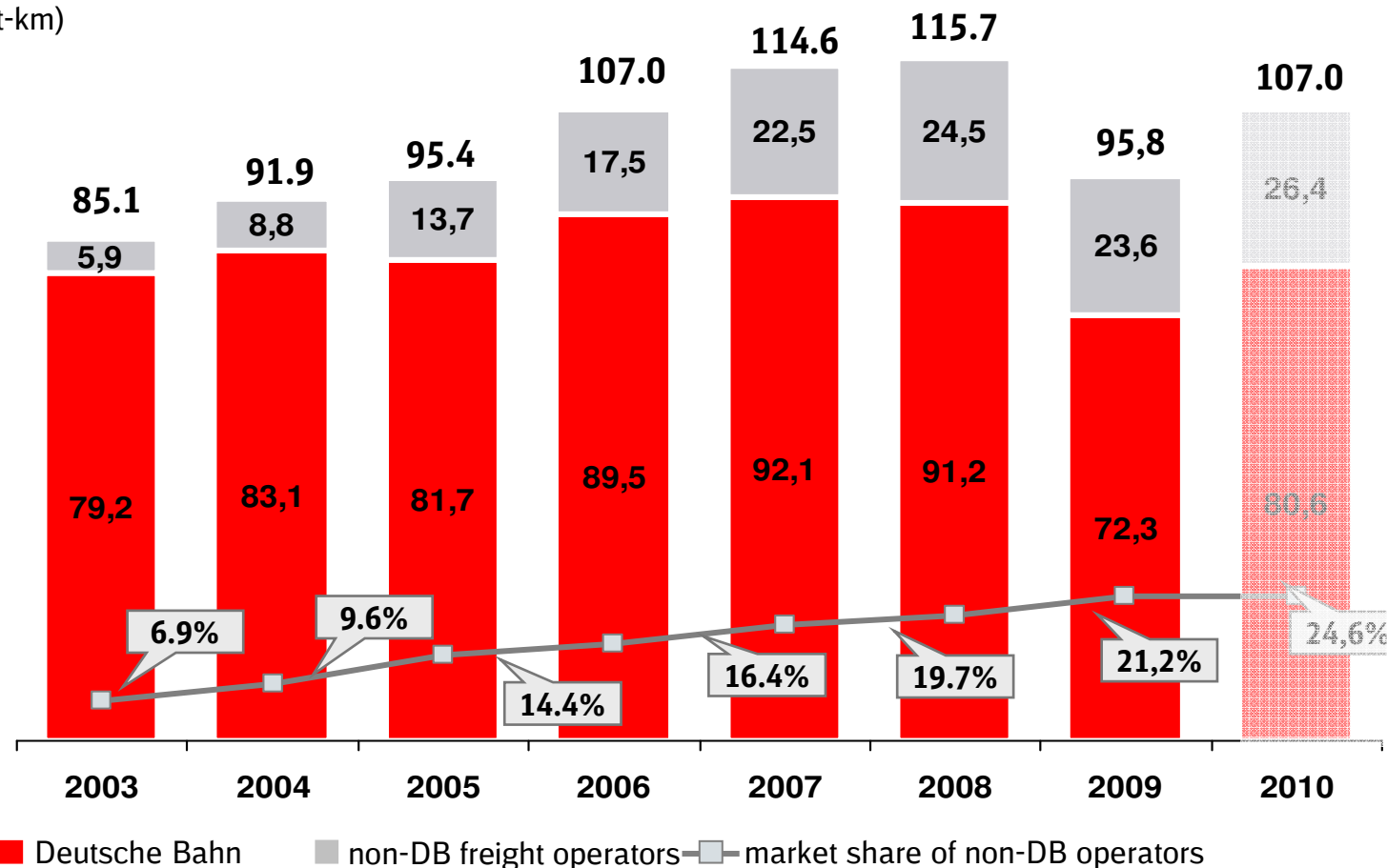
1) Forecast

Source: Federal Statistical Office,, BVU and DB AG

In the rail freight market, DB's competitors raised their market share by more than three percentage points in 2009

Rail freight traffic performance

(billion t-km)



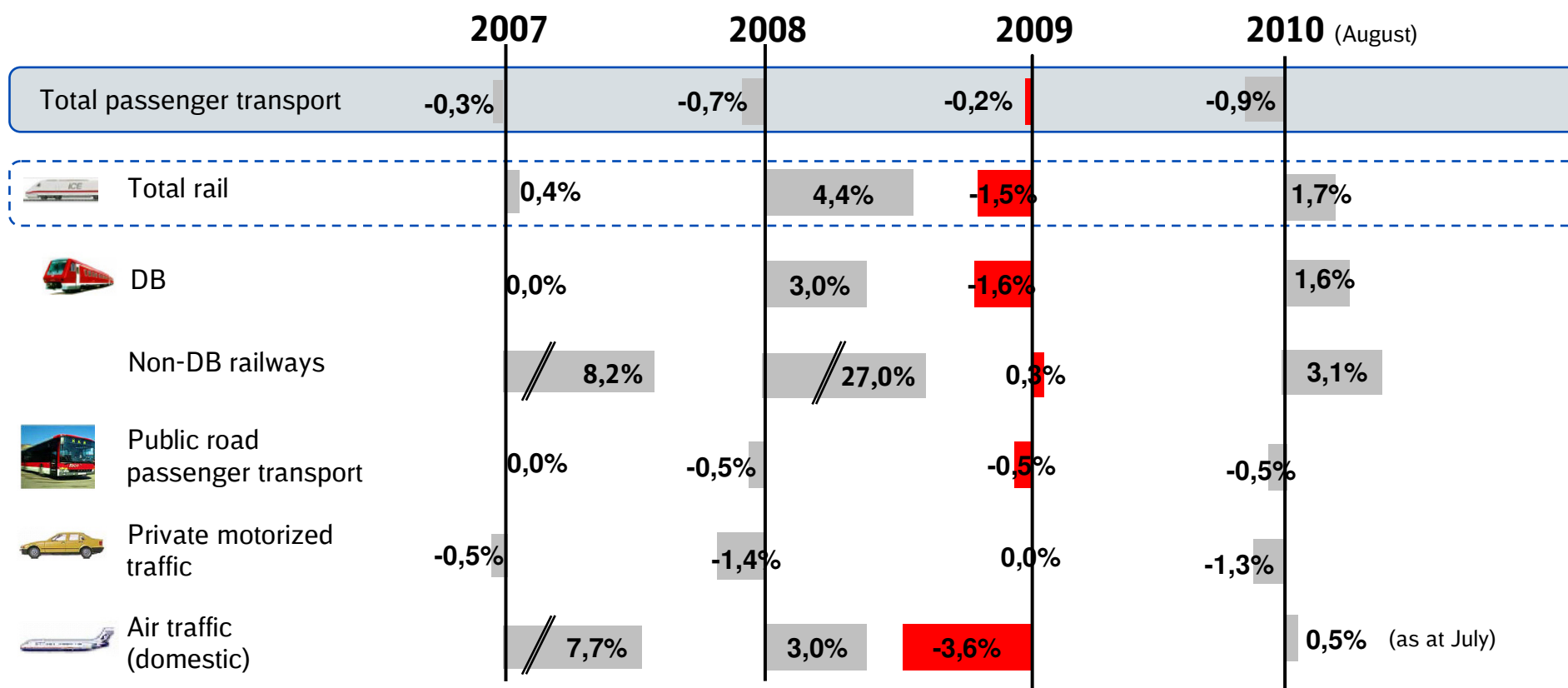
Source: DB AG

* Figure for 2010: forecast

Downturn in passenger transport market – increase of demand only in rail and air traffic

Passenger transport in Germany

(year-on-year change in per cent; basis: traffic performance)



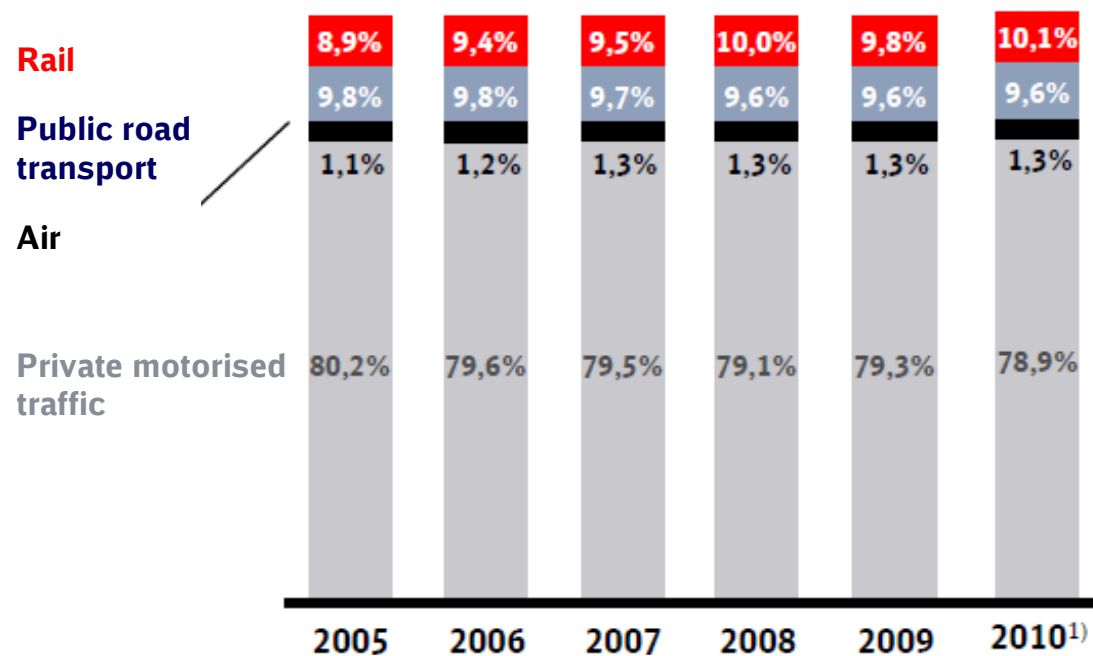
1) Figure for 2009 provisional

2) 2010 forecast correct at 3 September 2010

For rail a trend above average is expected

Passenger transport in Germany 2009

(market shares in per cent; basis: traffic performance)



* Figure for 2009 provisional/estimate
 (Figures are rounded and may therefore not add up to exactly 100)

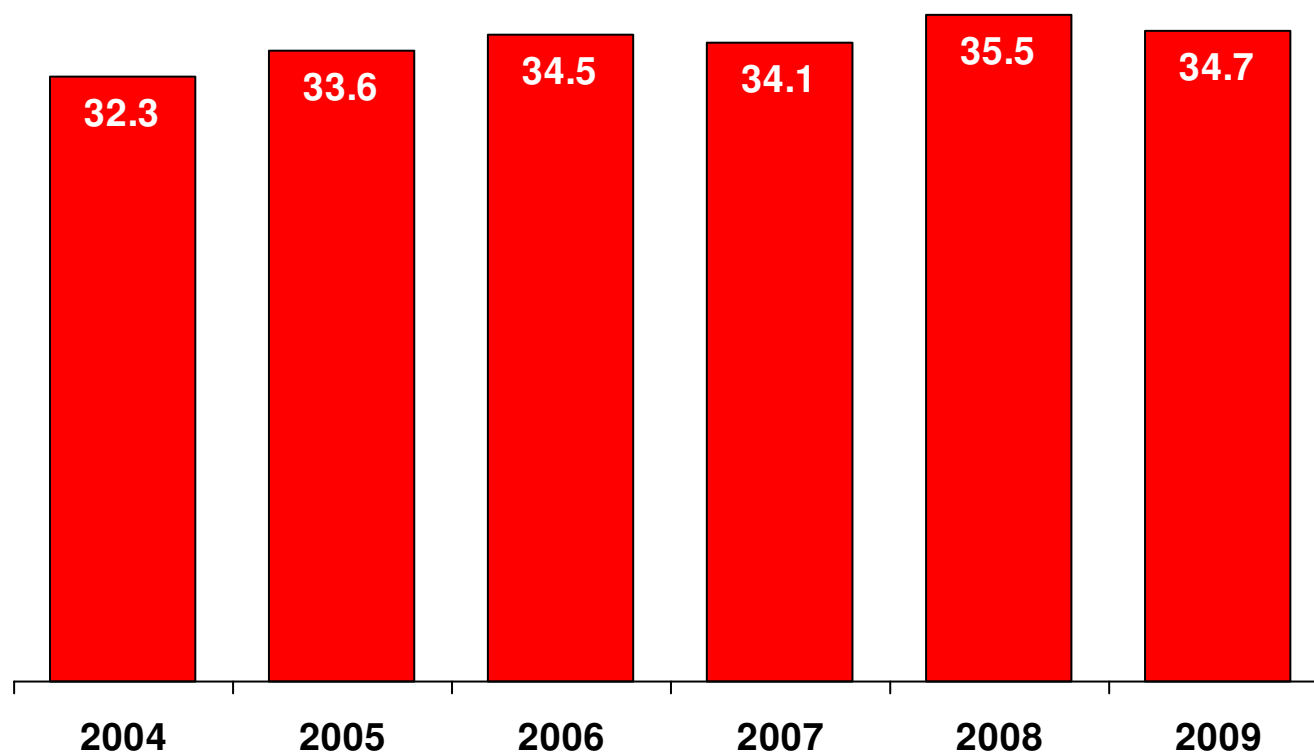
1) Forecast

Source: Federal Statistical Office, BVU and DB AG

Long-distance traffic performance by rail declined in 2009 as a result of the economic crisis

Traffic performance by DB Long-Distance

(billion pkm)



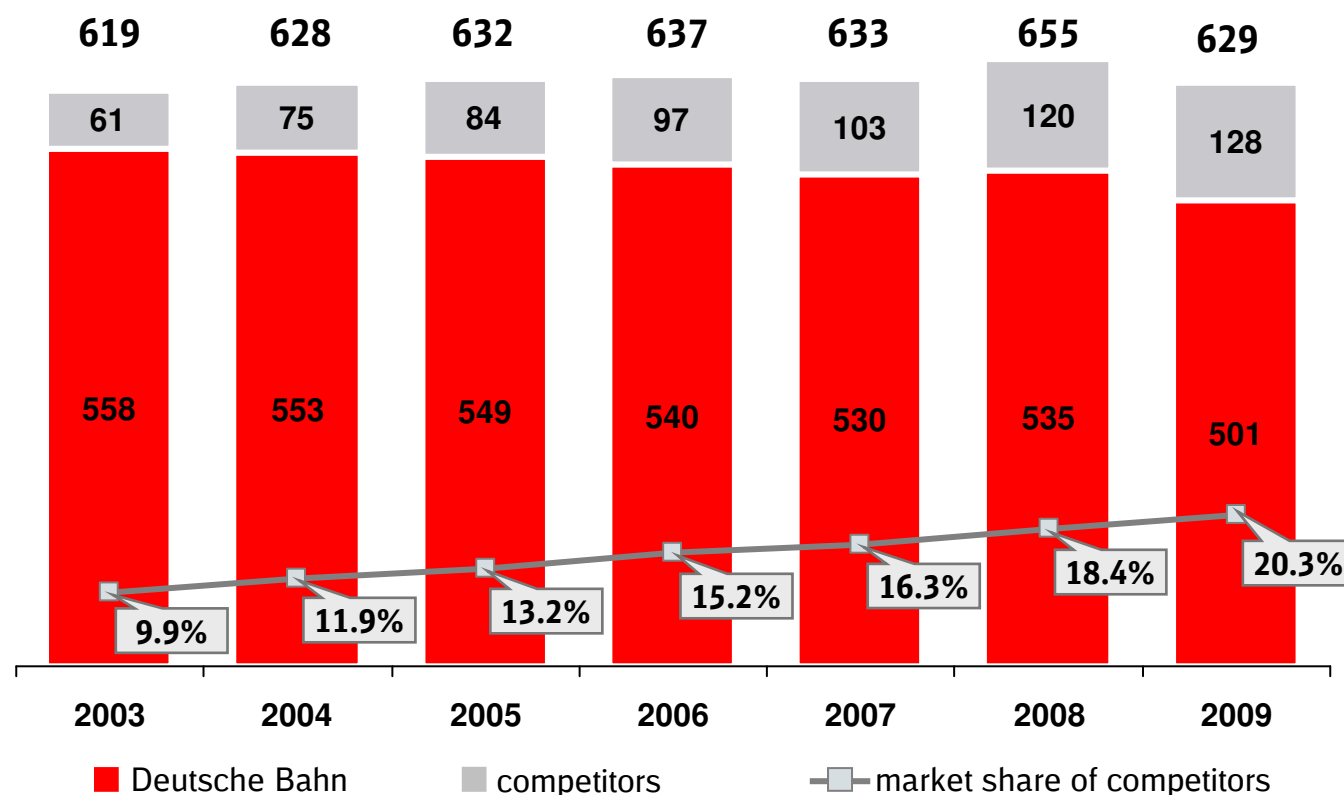
■ Traffic performance by DB Long-Distance (inclusive of night and motorail trains)

- Long-distance traffic performance by DB was down by 2.3%.
- There are still hardly any competitors active in the market for regular long-distance services.
- Announcements by Keolis and locomore rail that they planned to enter the German long-distance rail market were retracted in April 2010.
- Prospects 2010: (as at August: DB Long-Distance = +3.0%

Competitors in the regional market raised their share of ordered train services to 20.3 per cent

Ordered train services in the regional market

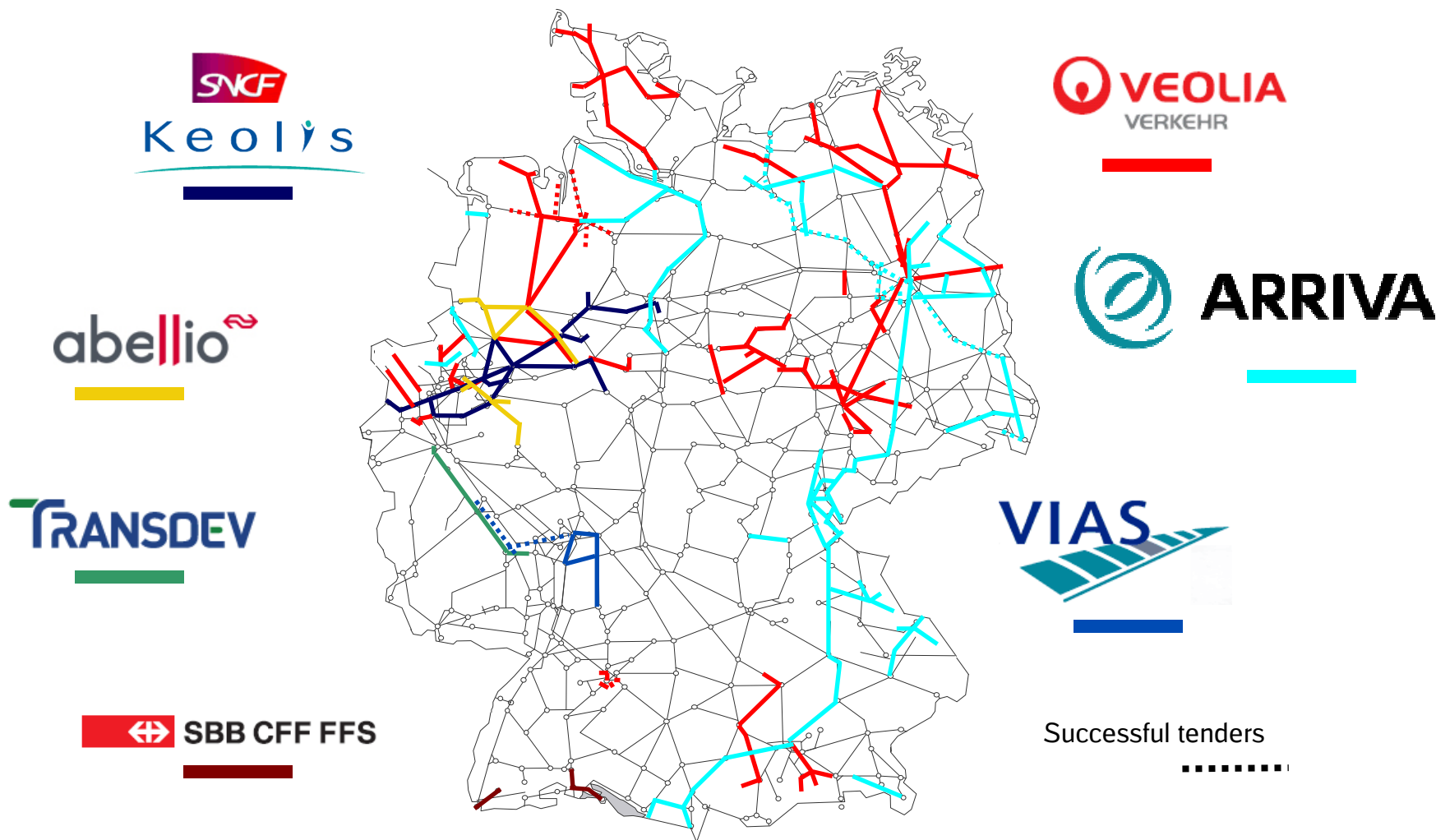
(million train-km)



Source: DB AG

- In 2009, the share of competitor railways in terms of operated train-kilometres rose by 10.4% owing to contracts won in competitive procedures in previous years
- DB Regio was successful in contract award procedures in 2009 and won 71% of the total 63 million train-kilometre order volume.

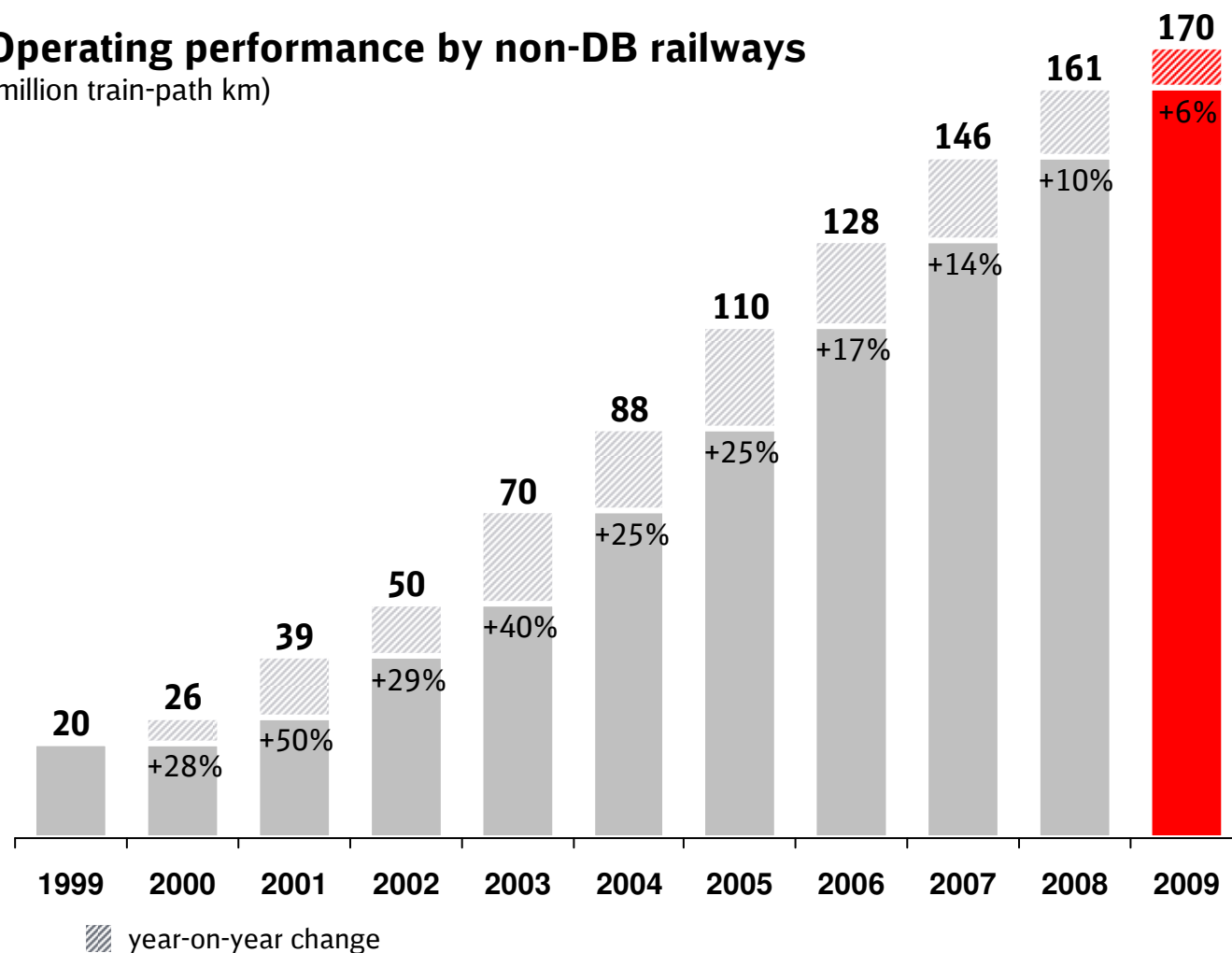
Foreign transport undertakings in the German rail passenger market (as at: 2010 timetable)



Unchecked growth for the more than 320 competitor railways

Operating performance by non-DB railways

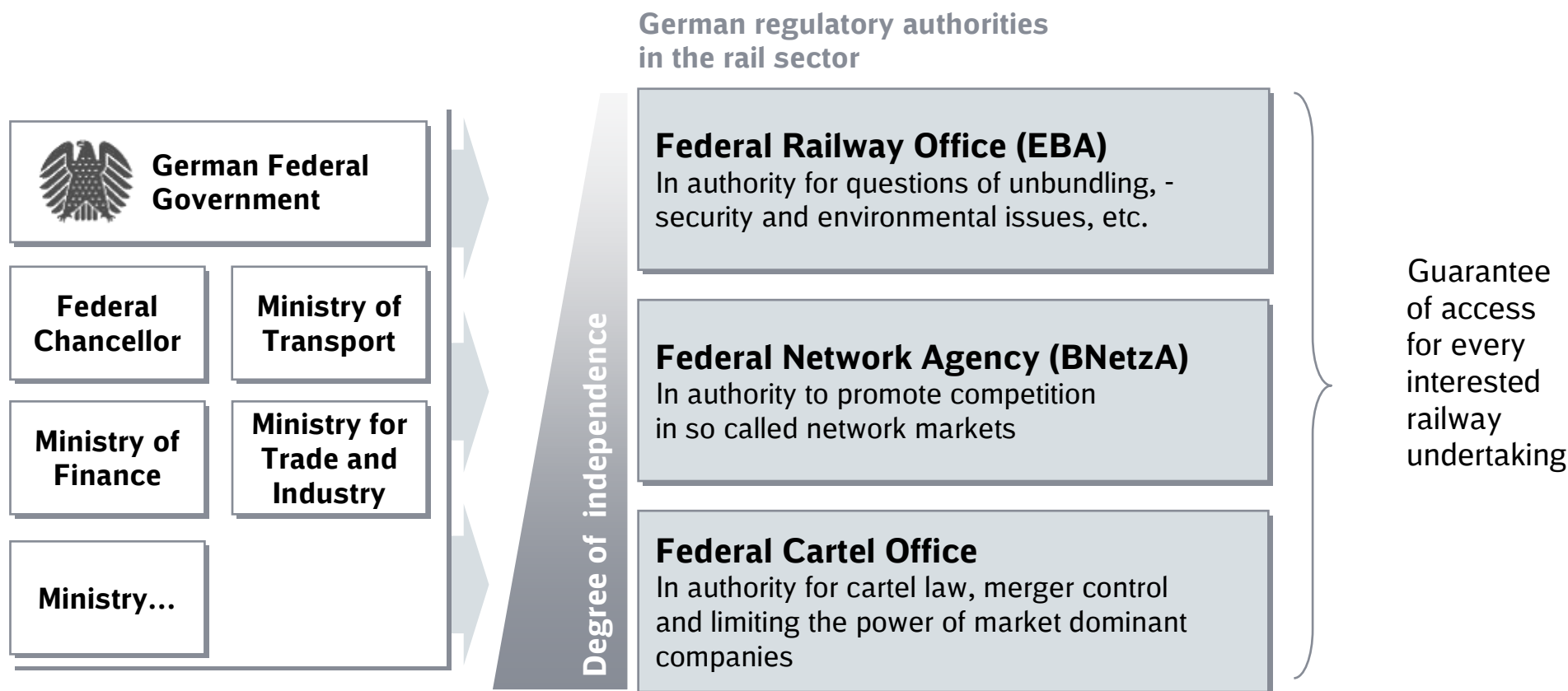
(million train-path km)



Source: DB AG

- Operating performance by non-DB railways was up 6 per cent year-on-year to 170 million train-path kilometres.
- Competitors account for a share of approx. 17 per cent of total operating performance by DB Netz AG (2008: 16%)

National regulatory authorities are acting independently



Agenda

Market development

Discussing the new legal framework


Limits of regulation

Despite market opening, the access for DB in European markets is confronted with substantial competition barriers

Problems that have continued without improvement since 2008

- 
- Prevention of one-man operations by trade unions or public authorities
 - Time-consuming approval procedures for technical locomotive equipment
 - Infrastructure connection for DUSS terminal is refused
 - Use of Alessandria marshalling yard is not permitted

Barriers occurring in 2009

- 
- SNCF blocks capacities for train path applications
 - Allocation of train paths: only at short notice and in poor quality
 - Lengthy procedures for the approval of new locomotives
 - 5 months after the law was adopted, the regulatory authority has still not commenced work

The Commission's initiative to further standardise European railway law is on the whole to be welcomed

Opinion DB for the Recast

- The promotion of railway traffic in Europe calls for harmonised framework conditions
- Therefore DB welcomes the initiative on the whole
- DB calls for a complete liberalisation of the rail passenger market as well
- The Commission has emphasised the importance of this issue in the accompanying notification
- Also decisive for DB: the integrated structure has to stay possible under European law

Subjects to debate concerning the Recast

- regulation of service facilities
- detailed requirements for infrastructure costs and access charges
- provisions on noise-differentiated infrastructure charges
- demands for performance schemes
- extended powers for market observation for regulatory bodies
- requirements for the „regulatory accounts“
- legislative technique
- mandatory discount schemes for trains equipped with ETCS

Agenda

Market development

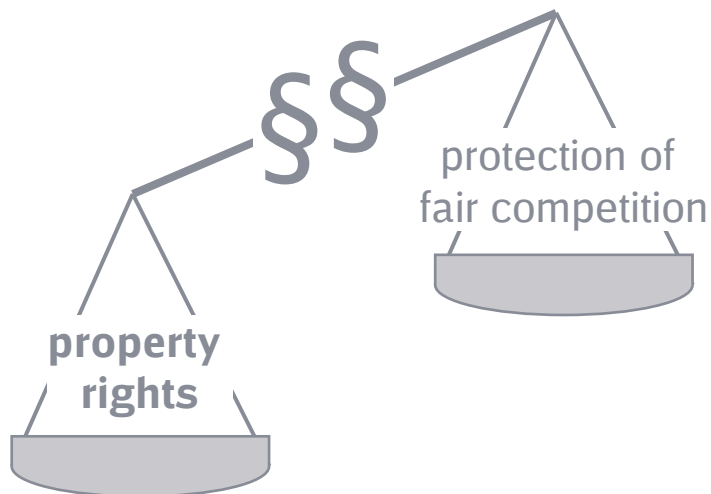
Discussing the new legal framework

Limits of regulation

Regulation has to be reasonable – interference only if necessary

Legally different interests have to be balanced

Is regulatory interference reasonable?



Theoretical foundations

Accepted in economic and legal theory:

Only „Essential Facilities“ have to be regulated!

Two prerequisites ¹⁾:

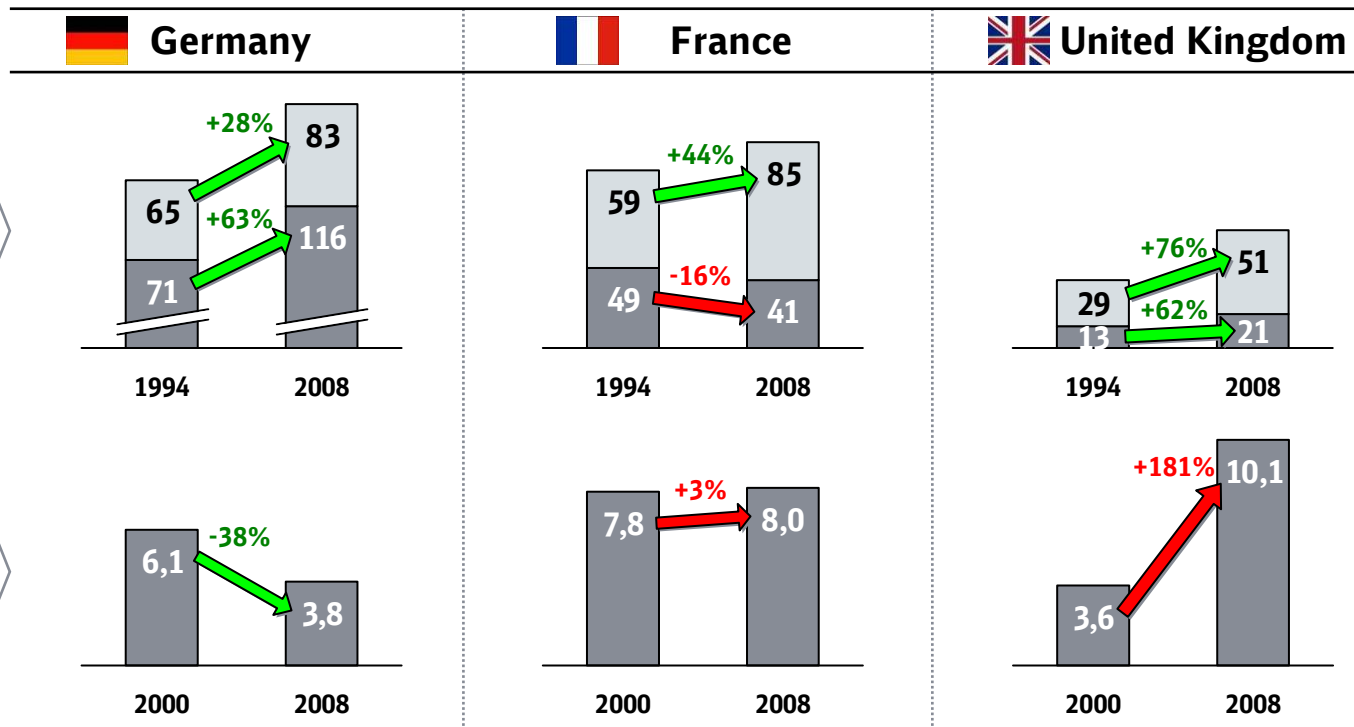
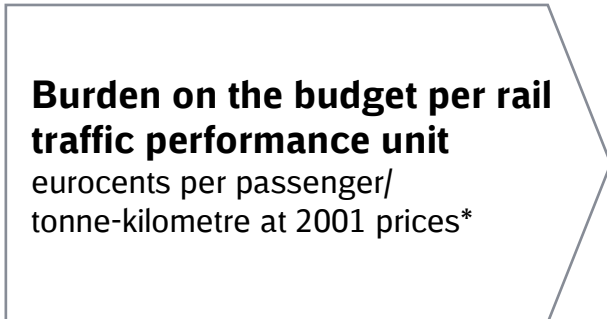
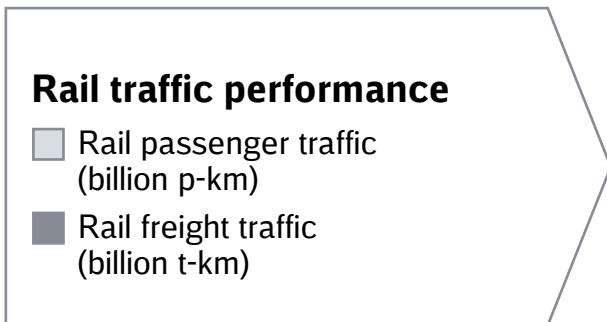
- The facility has to be vital to operate on the downstream market
- The competitor cannot build up the facility on his own with adequate means

Instance

- Clearly compliant with prerequisites
 - **Train paths**
 - **Stations etc.**
- Compliance with prerequisites in dispute
 - **Maintenance facilities etc.**
- Clearly not compliant with prerequisites
 - **Ticket distribution**
 - **Energy distribution etc.**

1) Source: Wettbewerbsökonomie: Regulierungstheorie, Industrieökonomie, Wettbewerbspolitik, Günter Knieps, S. 103

The integrated structure means a significantly lower burden for the public purse – performance by countries with other models is not so good

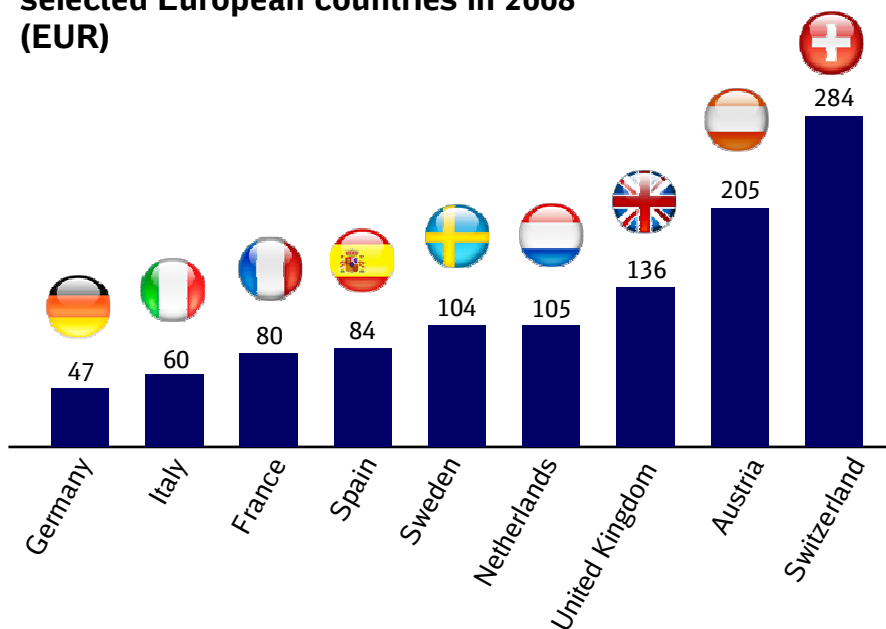


- DB with **integrated structure**
- Rail transport markets are fully **liberalised**
- **Strong regulatory influence**
- **Growth for rail and financial relief for Federal government**
- Formal separation, **SNCF responsible for network operation**
- No more than **minimum requirements** of liberalisation implemented
- **No independent regulatory authority** until 2010
- Drastic slump in rail freight, **high costs** for taxpayer
- **Separation and privatisation, infrastructure under state management** again since 2002
- Rail transport markets fully **liberalised**
- **Strong regulatory influence**
- High growth at low level, **costs have multiplied**

* State funding contributions include payments to ordering authorities, RUs and IMs; Sources: Statistiques équipement gouvernement français, Department for Transport, Office of Rail Regulation, Eurostat and DB data

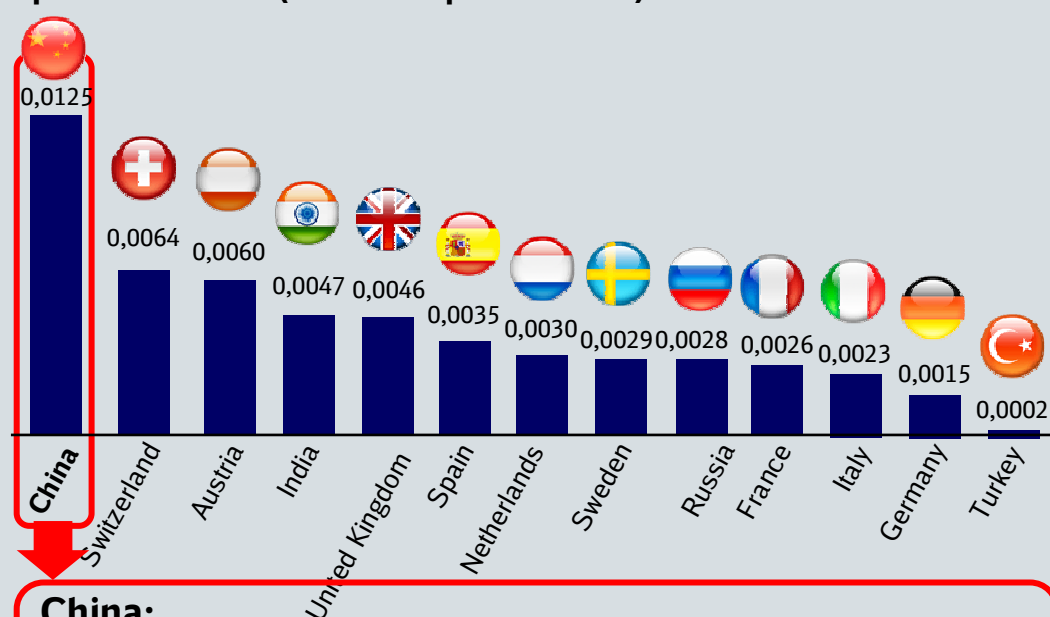
Investment activities in Germany are below average on an international comparison

Per capita investments in rail infrastructure in selected European countries in 2008 (EUR)



Source: 1: BMVBS (Germany), VöV (Switzerland), BMVIT (Austria); SCI Verkehr GmbH "Worldwide Finance and Investment Budgets of the Railways 2009"

Public investments in rail infrastructure per euro of gross domestic product in 2008 (at current prices - EUR)



China:

- Central policy decision in the current five-year plan (2006-2010): focus on investments in rail, target: more market shares for rail
- 2009: investments in rail infrastructure have overtaken road (Jan-Sep): rail approx. EUR 79 bn; road approx. EUR 78 bn
- Increase in investments in 2009: rail +87.5%, road +50.7%

(Source: Institute for Railway Technology, Prof. Dr.-Ing. P. Mnich)

DB welcomes the Commission's proposal for mandatory introduction of multi-annual contracts (MAC)

Commission's proposal on MAC

Mandatory introduction of a contractual agreement between the competent authority and the infrastructure manager for a period not less than **five years**. Key elements are:

- Determination of **State funding** for infrastructure
- Definition of **performance targets**
- Giving **incentives to reduce the costs** of providing infrastructure **and** the **level of access charges**



Opinion DB

Sustainable financing of infrastructure (MC-pricing vs. full-cost recovery requirement)

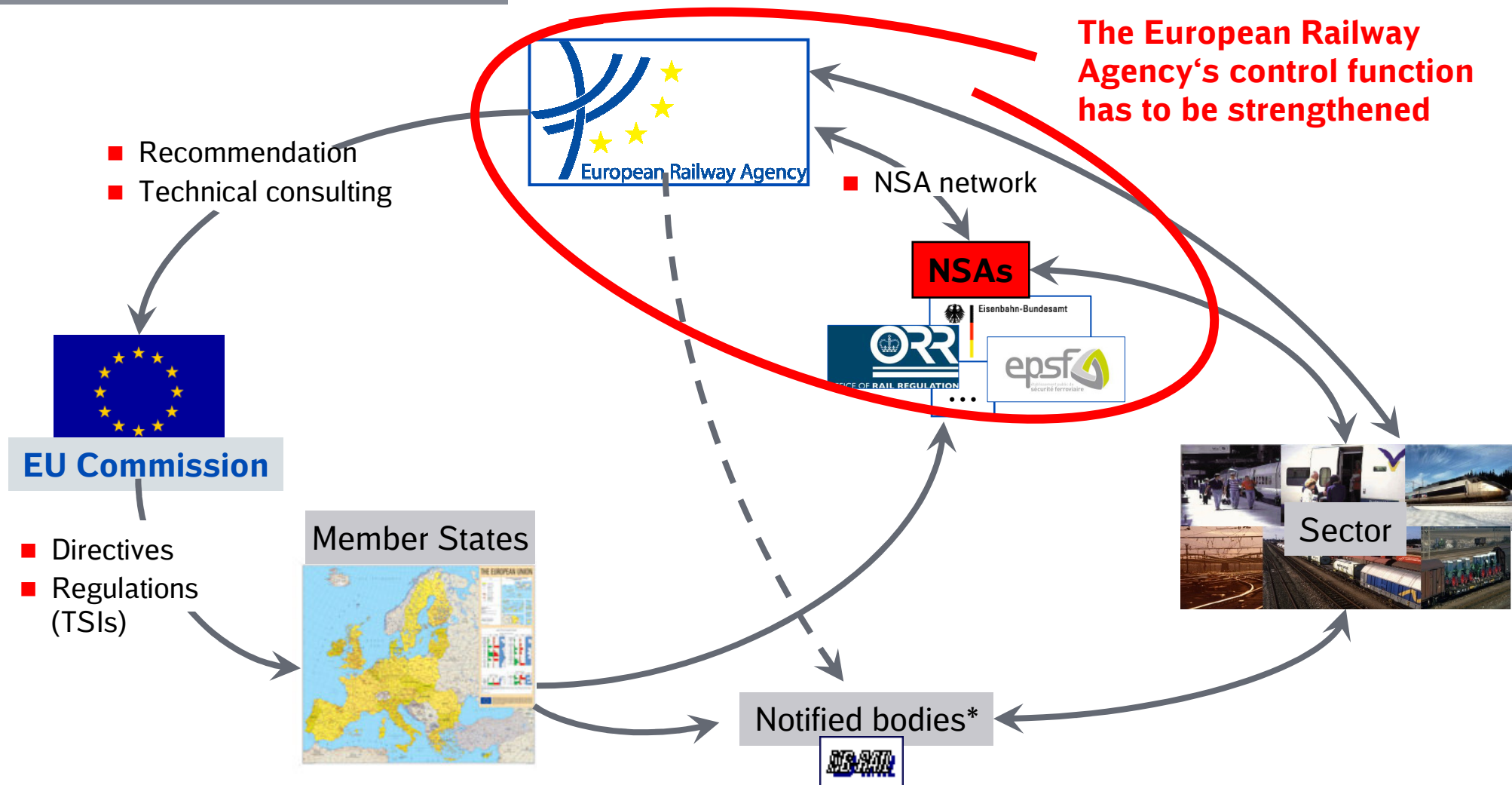
Quality standards for infrastructure subject to public funds

Ensures that **railway undertaking benefit from cost reductions** and increases in efficiency



MAC allow integration of all these aspects under one roof

Technical harmonisation is as well a crucial issue – DB has seen that recently in the debate about the Eurotunnel



* Instituted appointed by the state to draw up the conformity declarations pursuant to the TSI (whether the vehicles' technology conforms to the interoperability requirements. In Germany (in contrast to other Member States) there is only one body, the EBCert, i.e. the Railway Certification Body.

Thank you for your attention!

