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#### The regulatory framework for electricity in the EU: Implementation to traction current for railways

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22<sup>nd</sup> Florence Rail Forum "Electricity and Infrastructure Managers: Is there a need for Regulation?"

Florence, 9 Dec 2022



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# EULER Electricity sector liberalisation Reference and electricity consumption by Railway Undertakings

- Electricity supply is liberalised in the EU since 2007
- All consumers shall be free to:
  - buy electricity from the supplier of their choice
  - have more than one electricity supply contract at the same time, provided that the required connection and metering points are established

Article 4 of the Electricity Directive ((EU) 2019/944)

- There is no reason why Railway Undertakings (RUs) should not be able to enjoy the same freedom to choose the suppliers
- Any restriction to the possibility of RUs freely to choose their suppliers might be in breach of EU law





## Are there barriers to Railway Undertaking freely choosing their suppliers? (1)

#### Legal/regulatory

- At present, the railway Infrastructure Managers (IMs) are allowed to provide traction current (in a non-discriminatory manner, as an additional service billed separately)
- If the railway IM is the only available provider of traction current, the price of traction current should be regulated in a cost-plus manner
- What is the status of the railway IMs' electricity network within the electricity regulatory framework?
- Could the railway IMs' electricity network be qualified as a 'closed distribution' system'?
  - Doubtful, given the requirement of art. 38(1)(b) of the Electricity Directive that the system distributes electricity primarily to the owner or operator of the system or their related undertakings
  - In any case, this would not prevent it from being subject to TPA obligations.



## Are there barriers to Railway Undertaking freely choosing their suppliers? (2)

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#### Technical

- Lack of metering at the individual train level
  - But multiple trains already operate on the same network and therefore there must be ways of defining their individual consumption. This could be used in a transitory period until smart meters are installed on all trains





## The role of the Railway Infrastructure Managers

with respect to the traction current consumed by Railway Undertakings

- Wheel on their electricity network the electric current that RUs buy from the suppliers of their choice
- Possibly compete with other suppliers in selling electric current to RUs
  - In this case, they would need to qualify as suppliers
  - To be considered if their role as operator of the electricity network used to deliver electricity to the trains could put them in a position to distort competition in the supply of electric current to RUs. If so, unbundling should be considered.





## The liberalisation of the energy sector and the rationale for unbundling

- The liberalisation of the energy sector and the introduction of competition wherever possible, requires:
  - Unbundling between competitive and monopoly activities
    - to remove the conflict of interest between competitive and monopoly (network) activities:
      - Possible cross-subsidies in tariff setting
      - Possible discrimination in <u>access conditions</u>
      - Possible distortions in <u>network development</u>
  - Third–party access conditions to the networks



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### Different Forms of Unbundling for the Railway Infrastructure Managers based on the regulatory framework for the energy sector

- **Accountin**g: would require the railway IMs to keep separate internal accounts for each of its activities, in particular separate accounts for its electricity network-related activities and for its other activities
- *Functional (management and decision-making)*: would requires the railway IMs to separate the management, including decision-making, of its different activities, in particular separate management and decision-making of its electricity network-related activities and of its other activities
- Legal: would require the railway IMs to operate its regulated and competitive activities, in particular its electricity network-related activities and its other activities, through separate legal entities
- **Ownership**: would requires the electricity network-related activities and the other activities of the railway IMs to be operated by undertakings with separate ownership



## Unbundling of system operation activities in the EU energy sector

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		2nd De eksers		
		2nd Package "Speeding up	3rd Package	
	1 <sup>st</sup> Package	liberalisation and	"EU-wide Institutional & Regulatory	Clean Energy for All Europeane
	"First common rules for the internal market	market integration" Full market opening;	Framework"	Clean Energy for All Europeans Package (CEP)
				"More robust EU Framework"
and liberalisation"		obligation for MSs to	Reinforcing unbundling; harmonised cross-	Enhanced energy market
	inderangation	establish NRAs independent from	border rules;	design; reinforcing ACER &
	Partial liberalisation	industry; legal &	strengthened NRAs independence and	ENTSOs' roles; strengthening regulatory oversight; creation
inder and	inderansation	tion functional unbundling	powers; establishment	of RCCs and of EU DSO Entity;
	1 1		of ACER & ENTSOs	emphasis on consumers
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	1996 1998	2003 2005	2009	2019
	Accounting	Legal	Ownership	Ownership
	separation	unbundling	unbundling*	unbundling*
www.eui.eu				Co-funded by the Erasmus+ Programme
www.eui.eu		* With derogation for existing vertically-integrated undertakings (see next slide)		
	undertaking			



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## Thank you for your attention!



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