

SEETO working group railways and intermodality 27th October 2011 in Zagreb.

Regulatory cases in Austria with focus on trans-alpine corridors

Georg Fürnkranz
(Head of SCG 2005-2010)

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Overview Austrian railways

Railway network about 5500 km
 about 2,5 Mio trains/year
 About 150 Mio train km/year
 17 freight operators
 13 passenger operators
 10 Infrastructure managers (mostly integrated IM&RU)
 Some further narrow gauge lines, metros and tram lines (no open access)



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Austrian Rail Regulatory Body 'Schienen Control'

Regulatory Body Art. 30,31 2001/14, consisting of:

- **Schienen Control GmbH** (Ltd) responsible for organisational matters and statistics, conciliation board,...
- **Schienen Control Kommission** which takes the formal decisions (1 Judge + 2 Railway Experts, 1 substitute for each)

Appeal body and ex officio action in case of discrimination

- Network statement
- Charging criteria
- Path allocation
-

and according to 1371/2007 responsible for Passenger rights enforcement

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Ex officio action

- The Network Statement and many other documents dealing with relations between railways have to be sent to the RB
- They are checked by SCG and if there is a suspicion of discriminatory contents SCG has to decide.
- If market monitoring shows problems of discrimination SCK also can start an ex officio procedure.
- Conditions of passenger right provisions of the RUs are subject to evaluation by SCK
- Consequences: Documents (agreements) can be declared void, orders can be given.

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Practical work

During the first 12 years the Austrian regulatory body

- Dealt with about 350 topics
- Performed about 100 formal procedures
- Brought up many more solutions by conciliation

Outlook: Number of procedures/complaints is increasing rapidly due to passenger market opening and increasing number of RUs entering the austrian market

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Market development in Austria




Abb. 6: Verkehrsarten 2008-2010 (Quelle: Schienen Control)

Year	Binnen	Stadtfahrer	Ausfuhrer	Transit
2008	5.8	4.2	4.2	4.2
2009	5.2	4.2	4.2	4.2
2010	5.8	4.2	4.2	4.2

Abb. 7: Marktanteile der privaten EVU 2008-2010 (Quelle: Schienen Control)

Year	Nettonennkilometer	Bruttonennkilometer	Nettonennkilometer
2008	15.5	12.5	12.5
2009	16.5	12.5	12.5
2010	18.5	14.5	14.5

According to the IBM/DB railway liberalisation index which was published in 2004, 2007 and 2011 and compares the success in rail market opening, Austria improved as follows:
 Lex from 17/25 - 11/27 - 5/27, Access from 9/25 - 5/27 - 6/27, Com from 10/25 - 11/27 - 7/27

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Information on delays 1/2

- New entrant passenger RU requested real time data on delays of incumbent's trains to assure information of passengers about connection trains according to 1371/2007
- The IM's 'ARAMIS' IT-System provides informations on delays only for the RU responsible for the train
- Incumbent's data is not secret, since it is published on screens to be seen on every platform of stations
- No explicit obligation for IMs to provide such data according to 2001/14 and austrian railway act

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Information on delays 2/2

RB asked the european court of justice for a preliminary ruling on the questions if

- The RU is obliged to inform passengers about delays of connection trains (of different RUs) and if that is the case, if
- The IM ist obliged to provide this information to the RU

Decision is expected for the future



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Brenner-PV 1/2

Brenner – passenger trains Munich-Verona/Milano/... across Austria

- Italian incumbent was no longer interested in international trains
- Austrian and german incumbent started cooperation with italian private operator to continue service
- Trobles started
- Italian RB informed was by austrian RB (international cooperation)



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Brenner-PV 2/2

- Problems:
- Timetabling : Connections
- Technical aspects: Locos had to run at reduced speed – timetable was not possible
- Denial of stops (decision of RB) due to ‚economic equilibrium‘ according to 3rd Railway package

Most problems could be solved rapidly, after the incumbent took over shares of the private partner in italy...


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Brenner maintenance 1/3

- Brenner line should be closed for a long time according to network statement of IM
- Renewal of substructure, tunnels, bridges.
- priority to ROLA ‚rolling road‘ trains for some more time
- Ex officio action of RB




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Brenner route 2/3

- 6.4% of the train km on 2.1% of the network
- Most important transit route through austria
- Lowest market share of incumbent



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Brenner maintenance 3/3

Results:

- Closing time now 5 weeks plus 6 weekends
- 1-track operation for 5+3 weeks more on different segments of the line

Result of formal procedure by RB:

- No changes of priority rules for ‚ROLA‘




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Line closing for maintenance 1/3

Beeinträchtigungen am Österreichischen Streckennetz
Gesamtsperren 2012 auf Strecken der ÖBB

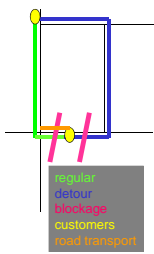


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Line closing for maintenance 2/3

- Problem: No liability for RU's costs caused by line closings according to IM's GTC
- excessive line closings caused significant losses for RUs since their customers could not be reached for months
- If trains could be detoured, RUs usually had to pay higher infrastructure fees for the trains, since the running way was longer.



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Line closing for maintenance 3/3

Result of formal complaint:
GTC had to be changed according to RB's order:


- Exclusion of liability not valid in case of intent oder rough negligence
- Detouring must not be priced higher than regular trainpath

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Closed Lines 1/3

- IM closed several lines without official permission (formal closing procedure is done by ministry)
- Lines were mentioned in the Network Statement with remarks like ‚no operation‘ and no trains were run, no maintenance done.
- RUs had to inform their customers, that IM refused trainpath applications



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Closed Lines 2/3

Official procedure by RB:
IM argued that -

- operating obligation (§19 railway act) was limited if operation was economically not reasonable (§30 ÖBB act)
- he could not close the line as long as trains were still running, so he had to state that trainpath applications were no longer welcome/possible before starting the formal closing procedure

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Closed Lines 3/3

RB's Decision:


- Operating obligation is not directly affected by economic arguments
- Formal closing procedure has to be performed before removing or restricting a line from the network statement
- Trainpath applications have to be answered correctly

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Train weight limits 1/2

- RU wanted to run 1600t trains on tauern line with (2) locos type 186
- IM refused trains heavier than 735t/loco
- Tauern line is a partly single track alp-crossing mountain line
- According to test runs the locos were able to run the train in case of good weather conditions.




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Train weight limits 2/2

RB accepted IM's restrictions, since

- IMs have to define technical parameters for the use of their Infrastructure -
- without discrimination but
- in a way that allows a safe and reliable operation and
- documents showed that operation could be disturbed under bad weather conditions



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Pushing locomotives on Semmering line

- Incumbent's traction company refused pushing service to RU on Semmering line although -
- similar services were offered on other lines to other 3rd party RUs even on the internet site and the
- contract on the service was already negotiated and initialled
- RU had to provide a second Loco for just 13km 2 times a week



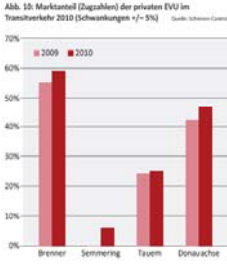
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Pushing locomotives on Semmering line

- RU withdrew complaint, when service was provided by the traction company after some informal highest level talks between RU and the incumbent
- RB closed the formal procedure but stated, that the refusal of service was discriminating anyway.

Abb. 10: Marktanteil (Zugzahlen) der privaten EVU im Transporthverkehr 2010 (Schwankungen +/- 5%) Quelle: SchienenControl



Line	2009	2010
Brenner	~55%	~60%
Semmering	~5%	~5%
Tauern	~25%	~25%
Donauwacht	~45%	~50%

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Thank you for your attention!

Don't hesitate to ask for clarifications!

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Decisions and reports available on www.schienencontrol.gv.at

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