

MC Mobility Consultants

MC Mobility Consultants GmbH
A-1180 Vienna, Gentzgasse 64 – 66/9
Telephone: +43 (0) 892 3600
office@vienna-mc.com
www.vienna-mc.com
Skype: office.vienna-mc

Conditions of access to service facilities
(Art. 13 of Directive 2012/34/EU)



Klaus – Jürgen Uhl
Senior Consultant
MC Mobility Consultants
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Art. 13.1 Provision of minimum access package **MC** Mobility Consultants

Supply to all railway undertakings, in non-discriminatory manner, the minimum access package

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Art. 13.2 Access to service facilities **MC** Mobility Consultants

Supply, in a non-discriminatory manner, to all railway undertakings access, including track access to the facilities and to the services supplied in these facilities.

The service shall be given on REQUEST

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Art. 13.3 Direct or indirect control of an operator **MC** Mobility Consultants

Direct or indirect control by an infrastructure manager/applicant/railway with active and dominant position in national railway transport services markets
= usually the **incumbent state-owned railways**

The operator: **independent of this body** or firm in organisational and decision-making terms.

However, no requirement to establish a separate legal entity for service facilities; organization of distinct divisions within a **single legal entity permissible**.

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Art 13.3. Decision-making and organisational independence for the operators **MC** Mobility Consultants

1. **Operation** of service facilities by a **distinct division** with its own dedicated staff;
2. Separate information system from the controlling entity;
3. Confidential information approved by regulatory body, not shared with controlling entity;
4. No decisive influence by controlling entity on the day-to-day management;
5. Division managers not affected by conflicts, no bonuses related to the performance of the controlling undertaking;

Regulatory bodies assess
If not satisfactory, **additional measures** for full organisational and decision-making independence.

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Operator is IM or under control of IM **MC** Mobility Consultants

**The operator: infrastructure manager
or
under the direct or indirect control of infrastructure manager**

Requirements:

1. **Independence of essential functions**,
2. Offer of equitable and non-discriminatory access to infrastructure,
3. No provision of any rail transport services,
4. Proof of achieved separation requirement (regardless of organisational structures).

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Separate accounts

The operator and the body or firm shall have **separate accounts**, including separate balance sheets and profit and loss accounts.

Separate accounts for **each type of service facility** and category of service provided.

Control by Regulatory Body.

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Art. 13.4 REQUESTs

REQUESTs by railway undertakings for access to and supply of services in service facility

Answer within **reasonable time** limit set by Regulatory Body

Refusal

Only if viable alternatives (for operating freight or passengers on the same/alternative routes) under economically acceptable conditions

Operator

No obligations to make investments in resources/facilities to accommodate all requests by railway undertakings.

Decision of refusal

Justification in written form, including viable alternatives in other facilities

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Viable alternative

Aspects

1. substitutability of operational requirements
2. substitutability of physical and technical requirements of the facility
3. additional cost for the railway undertaking concerned resulting from access to the alternative facility instead of using the initially envisaged facility
4. **for freight services**: impact on freight service concerned in terms of envisaged transshipment options, transportation time and envisaged delivery time
5. **for passenger services**: impact on attractiveness of services for travellers in terms of routing, travelling time, accessibility, connections with other rail passenger services or other modes of transport.

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13.5 Conflicts between different REQUESTs

If no viable alternative and no accommodation of all REQUESTs for capacity for the relevant facility on the basis of demonstrated needs,

the applicant may **complain to the regulatory body** that ensures that an appropriate part of the capacity is granted to that applicant.

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13.6 Use it or lease it

Not in use for **at least two consecutive years**, interest by railway undertakings for access to this facility expressed to the operator on the basis of demonstrated needs.

Obligation by its owner to **publicise the operation for lease or rent** as a rail service facility, as a whole or in part.

No obligation, if the operator of that service facility demonstrates that an **ongoing process of reconversion** prevents its use by any railway undertaking.

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13.7 Additional services

To be supplied in a non-discriminatory manner.

1. Traction current, charges on the invoices separately from charges for using the electrical supply equipment;
2. Pre-heating of passenger trains;
3. Tailor-made contracts for:
 - - control of transport of dangerous goods,
 - - assistance in running abnormal trains.

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To be supplied in a non-discriminatory manner.

The operator is not obliged to supply these services:

1. Access to telecommunication networks;
2. Provision of supplementary information;
3. Technical inspection of rolling stock;
4. Ticketing services in passenger stations;
5. Heavy maintenance services for high-speed trains or for other specific rolling stock.

- Service facility statement
- Rail related service
- Service facility capacity
- Facility coordination process
- Controlling entity
- Self-supply of services

1. Public information on conditions for access to operators' services facilities and the supply of services in their facilities
2. 12 obligatory items to be included in the statement
3. In case of more than one service provider, coordination in **one single place**.

1. Its own service facility statement
2. By the infrastructure manager with the relevant information to be included in the network statement
3. Its own web portal, BUT with the relevant link to be included in the network statement,
4. At least two languages of the Union
5. Up to date

1. Cooperation with infrastructure managers.
2. Pending allocation process of the infrastructure manager.
3. Regulatory bodies.
4. Coordinate on a **daily basis**.
5. Record keeping of cooperation activities.

1. Acknowledgment of receipt of a REQUEST in due time.
2. Incomplete REQUEST.
3. Deadlines: max 24 hours resp. 10 working days
4. Different deadlines for different types of service facilities and/or rail related services.
5. Exemptions in individual cases granted by **regulatory body** permissible.
6. Timeframes defined by regulatory bodies.

1. Consultation with the relevant applicants and a facility coordination process, according to the principles set out in **service facility statement**.
2. Principle – to maximise the capacity available in the facility without investment in resources or facilities

1. Participation of the **regulatory body** as observer in the facility coordination process.
 2. No solution > application of priority criteria published in the **service facilities statement**.
 3. Priority criteria.
- The priority criteria shall be subject to approval by the regulatory body.

Principles

1. No rejections of REQUESTs or
2. Proposal of viable alternative
3. Ad-hoc capacities.
4. Justification obligatory to the regulatory body
5. Contents: viable alternatives
6. Collaboration of applicant

Aspects:

1. impact on the viability of the business models of other undertaking(s) possibly affected by the decision;
2. overall amount of service facility capacity already attributed to other undertaking(s) possibly affected by the decision;
3. investments made into the facility by undertaking(s) possibly affected by the decision;
4. viable alternatives available to accommodate needs of other undertaking(s) possibly affected by the decision.

Establishment of a single point for REQUESTs

1. Financial incentives possible.
2. Transparent and non-discriminatory standards for incentives.
3. Information on the measures provided in the service facility statement.

1. Regular assessment of available capacity.
2. Periodical review of agreements with applicants.
3. Obligatory information on no-use of allocated capacity.
4. Surrender of allocated capacity.

Transparent and non-discriminatory selection process on the basis of appropriate criteria defined in the publication.