



## Press release

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### **Araf would like access to the French rail network to be simplified, speedier and clarified**

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On 28 January 2014, as laid down under French law, the French railway regulatory body (Araf) submitted its opinion on the Network statement drawn up by the Réseau Ferré de France (RFF – the French rail infrastructure manager).

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The Network statement is an essential document for railway undertakings, both for SNCF - the incumbent operator and new railway undertakings, since it contains all the rules required to use the railway network. It is published annually, one year prior to its becoming effective. It means that this Advice submitted by Araf applies to the network statement coming into force in 2015.

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Araf's Opinion on the network statement is basically a "reasoned" opinion (i.e. non binding for RFF). There is however a section on compliance with the charging rules governing the setting of Infrastructure toll charges which has been the subject of a "binding Opinion" (i.e. binding for RFF).

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The Bill on the reform of railways having been laid before the French Parliament, Araf deemed it necessary this year for the first time, to examine whether the conditions required to implement the Railways Reform had been fulfilled.

#### **1. Setting up prerequisites to the drafting of future State / UIM contract**

The reform provided for a 10-year contract signed between the State and the Unified infrastructure manager (UIM). Said contract is one of the rare instruments considered under the Reform in order to stabilise the railway sector's debt which increases by €1.5 billion every year.

Araf scrutinized the network statement with this concern in mind. It felt that the economic recovery of the railway infrastructure manager called for a far more precise contract, with a stronger commitment, and more controllable than the performance contract signed in 2008.

As part of its Opinion on the 2015 network statement, the regulator identified and indicated what prerequisites it saw as requirements in the drafting and monitoring of the future contract between the State and the UIM.

This contract should be based on:

- a) Orientations governing national railway operations and their matching status and productivity indicators;

Commitments will need to be made in order to keep reducing the number of existing “precarious train paths” so that, in time, none is left. “Precarious train paths” are temporary and indeterminate answers produced by RFF at present, which do not allow Railway Undertakings to plan their activities appropriately.

Opinion - page 3 *II.1 Establishing the traffic graph for the 2014 working timetable benefited from the positive impact of actions launched by RFF and DCF – SNCF’s Railway Traffic Department, in particular for improved anticipation when dealing with the effects of works operations. In September 2013, RFF had processed 99.8% of all path requests filed before April 2013 for the 2014 Working Timetable. The table below presents the results of the allocation procedure as at September 2013. It shows a definite increase in the number of secure train paths allocated and benefiting in particular to new entrant railway undertakings. Araf wished however that RFF would document the impact the decreased number of “precarious train paths” had on the average speed of freight train paths*

	Number of path/days requested			Number of path/days allocated definitely		
	2012	2013	2014	2012	2013	2014
<b>Passenger paths:</b>	5 364 648	5 368 972	5 236 000	89%	90%	93%
<b>Freight paths:</b>						
SNCF Freight	661 579	621 325	519 721	69%	73%	80%
Other RU	211 148	301 268	287 665	48%	57%	68%

(Source RFF – Reprocessed by ARAF)

The contract between the State and the Unified infrastructure manager (UIM) should plan and develop routes for network maintenance and upgrade. RFF should be encouraged to comply strictly with them, since any deviation at present translated into the potential risk of decreased network performances (reduced authorised speed, etc.) and useless discomfort to passengers (for example replacement of trains by coaches during closure of train routes).

*Opinion – page 14 III.9 Throughout the rail scheduled service, it is essential that the Infrastructure Manager plan works within the allocated time windows set for works and comply with it. The UIM must also make sure that all planned works are indeed executed, not only to ensure sustainability of the rail network and of its performances, but also to avoid having to neutralise capacities once again in the following years.*

- b) **Reference data** on the costs used to set and justify tariffs charged by the Network manager

Establishing the UIM's financial mapping and charging schedules calls for enhanced knowledge of costs incurred.

*Opinion - page 16 III.22 RFF based its proposals in part on the cost model finalised in 2012. In its Opinion n°2013-02, Araf had emphasized the fact that the new RFF cost model was substantially better than the previous one (use of more solid and more recent data bases (2009); estimation of marginal operating and maintenance costs by using more rigorous econometric techniques). It made for a more substantiated formulation of the short-term costs that had been identified in 2009 and that were directly chargeable to a train traveling on the network.*

III.23 In spite of these significant improvements in operating and maintenance costs estimation, Araf had underscored that the model needed to apply that same quality approach to the upgrading activity. [...]

III.24 [...] RFF must deploy further efforts when modelling upgrading costs, particularly by developing engineering models applicable to an improved estimation of upgrading costs as well as by introducing the link between maintenance expenditures and upgrading expenditures.

III.25 Also, for the estimation of marginal costs to be as close as possible to actual costs and operational and maintenance activities, RFF must periodically review its cost model. [...]. This meant that, since RFF's present cost model was the 2009 one, it should provide for the use of 2013 and 2014 data when recasting its cost model. This timeline would be consistent with the deadline by which a Contract would be signed between the State and the Unified Infrastructure Manager; it can only legitimately be based on recent data.

- c) Actions to control the costs for infrastructure operation, maintenance, and upgrading, in the form of productivity objectives. The monitoring of these objectives would govern the contract's success.

The European directives stipulated that the infrastructure manager must be encouraged to reduce its costs. The present system does not provide sufficient incentive. The various stakeholders also regularly challenge its transparency.

*Opinion - page 13 - III.6 Araf has repeatedly underlined the fact that the Infrastructure Manager must be encouraged to reduce its costs. This is stated in European Directives 2001/14/EC and 2012/34/EU. Such incentives should help in further optimising infrastructure use, thus also rail traffic and competition. This issue is all the more important since the stated objective of charges fully covering costs, comes close to a “cost plus” type charging model, which in itself does little to encourage the lowering of the infrastructure manager’s incurred costs.*

*111.7 RFF should therefore fulfil two requirements:*

- Tariffs for minimum services should include productivity objectives;*
- Efforts towards productivity and their results should be transparent; this would require in particular, that stakeholders have access to information on the extent of maintenance and upgrading works carried out and to the operational assets involved.*

Araf thus has noted that neither RFF nor SNCF Infra had introduced indicators to efficiently verify and measure the result of their productivity efforts. The future Contract between the State and RFF will necessarily contain such indicators and RFF will necessarily report to its customers on its factual productivity gains against the increased charges it would like to introduce.

*Opinion - page 15 - III.6 In this respect, Araf would ask RFF to design a global indicator to monitor production volume; and a clear definition of products and production factors used. This recommendation had previously been formulated by Araf in its Opinion n° 2013 – 011.*

*111. 17 Such progress is required in view of the afore-mentioned contract between the State and the infrastructure manager as per the Bill on the Reform of Railways, or failing, as per the re-negotiation of the performance contract. Araf would ask that RFF progress on these different issues in 2014. It will interview RFF next March on its work programme.*

## **2. Clarify access conditions to and tariffs of service facilities.**

Access conditions to **service facilities** (shunting yards; rolling-stock maintenance workshops; diesel and power supply facilities; etc.) are **a cause of repeated dissatisfaction** on the part of new entrants. This leads to disputes having to be settled, or Araf initiating sanction procedures.

Araf felt that this was an obstacle to the arrival of new entrants onto the network.

Araf wished to clarify the way that it plans to regulate their access technically, contractually and in terms of tariff, which should further the development of activities.

Request for access by railway undertakings should be dealt with at a technical level, in a transparent and non-discriminatory manner. This would require that the Managers

communicate all the information supplied at present on access requests applications and processing procedures.

*Opinion – pages 23-24 – IV. 20 Publication of the allocation procedure is required to guarantee transparency of access, in particular to facilities receiving requests for concurrent use.*

*IV. 21 Hence, per its Decision n° 2013-032, Araf ordered that, no later than by 31 March 2014, RFF would publish a procedure for siding allocation that would (a) set down a timeline for allocation procedure steps; (b) objective and relevant criteria for the allocation of sidings; and (c) in the case of allocation refusal, a list of reasons for probable cause. The rail network statement content should be amended accordingly.*

*IV. 22 Service infrastructure managers should publish such procedures more regularly, at least those infrastructures receiving requests for concurrent access. This applies to a number of combined transport sites.*

Contractual conditions drawn up by infrastructure managers should not contain unsubstantiated obstacles that would hinder network access, i.e. financial guarantees demanded of railway undertakings.

*Opinion – page 24 IV. 26 Demanding a financial guarantee prior to the entering into force of a contract is likely to constitute a barrier to access since this requirement generates costs and additional constraints payable by the railway undertaking. The inclusion of such a clause in a regulated access contract with a service infrastructure manager must be justified and always proportionate to the risks run in case of a possible payment default.*

Tariffs cannot be governed by simply applying the logic of passing on incurred costs. Araf felt that railway undertakings should only pay for what is directly linked to the service rendered. Pricing must also encourage Managers towards cost control and improved infrastructure management.

*In its Opinion n° 2013-002, Araf reminded that charges should be based on the real costs incurred by Service infrastructure managers. Araf felt that the only costs that could be included in the charges were:*

- Justified costs – for each one, the manager will provide evidence that is sufficiently supported by documentary evidence to demonstrate that it corresponds to a cost that has indeed been incurred by the manager, both in type and amount;*
- Relevant costs – by demonstrating the connection between the service rendered and the cost incorporated.*

*Charges should also be an encouragement to infrastructure managers to aim for the costs that an efficient operator would incur, i.e. by using both its resources and available technologies at optimum efficiency.*

Franck Iovène