Competitor Report German Railway 2013/2014

mofair
mobil und fair

NETZWERK
Europäischer Eisenbahnen e.V.

Editor

mofair e. V.

Dr. Engelbert Recker
Managing Director

Nimrodstr. 28
13 469 Berlin
Germany

phone: +49 (0)30 30 60 46 83
email: e.recker@mofair.de
www.mofair.de

Netzwerk Europäischer
Eisenbahnen e. V.

Ludolf Kerkeling
Chairman of the Board

Friedrichstraße 186
10 117 Berlin
Germany

phone: +49 (0)30 53 14 91 47 0
email: office@netzwerk-bahnen.de
www.netzwerk-bahnen.de

Supported by

NahverkehrsBeratung Südwest

Nahverkehrsberatung Südwest GmbH

Bergheimer Straße 102
69 115 Heidelberg
Germany

phone: +49 (0)6 221 13 75 59 0
email: info@nahverkehrsberatung.de
www.nahverkehrsberatung.de

November 2013, 1. edition
ISBN 978-3-00-044 314-5

Image credits

V. i. S. d. P.: Dr. Engelbert Recker, mofair e. V.,
Ludolf Kerkeling, Netzwerk Europäischer Eisenbahnen e. V.

The essentials in five pages

Competition in the rail sector has improved in the two decades since the beginning of the railway reform, but nowhere near as much as some people have claimed and others had hoped. This is all the more surprising given that a general principle is clear to see: wherever competition is promoted intensively, passengers, carriers and ultimately taxpayers benefit.

- Regional rail transport timetables have been steadily expanded since the regionalisation process began in 1996, with train services expected to exceed 650 million km for the first time in 2014. This is predominantly down to successful competition, even if rapidly rising infrastructure fees are now threatening to eat away at part of these successes. Services are even more appealing thanks to the use of modern trains and the greater integration of transport services, resulting in continuously rising demand.

  Competitors have been able to further increase their market share in Regional rail transport. In 2012, their share of transport services (passenger-kilometres [pkm]) totalled around 15 %, whilst their market share for operating performance (train-kilometres [tkm]) is expected to be 27.3 % by 2014. Fortunately the diversity of service providers has not yet diminished. National Express, one of Europe's largest private transport companies, has managed to break into the German regional rail transport market.

  However, this picture is complicated by the continued presence of market barriers. For example, competitors face disadvantages in marketing (access, commission), and the used-vehicle market does not operate equally well for all vehicle types. The authorities try to lower these obstacles to support competition, but the number of bidders for each call for tender is nevertheless usually close to the critical lower limit of 2.

  It is unsatisfactory for all stakeholders that they have to »run on sight« in light of the uncertain funding from 2015 (revision of the regionalisation fund) as well as the constantly increasing infrastructure fees.

- Overall performance in rail freight transport remains high, although the prolonged financial crisis in other European countries has triggered an economic slowdown recently. In 2012, competitors' market share (in tonne-kilometres [tkm]) rose to 28.6 % in total, despite the difficult market environment.

Figure 1: Market share in operational performance in regional rail transport in Germany 2014

in % train-kilometres (tkm) – Source: own

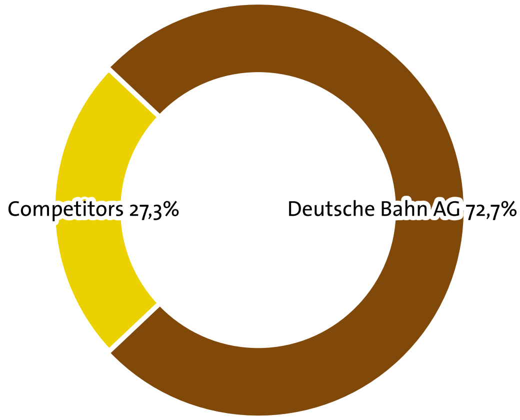

Figure 2: Market share in transport services in rail freight transport in Germany in 2012

in % tonne-km (tkm) – Source: destatis, own

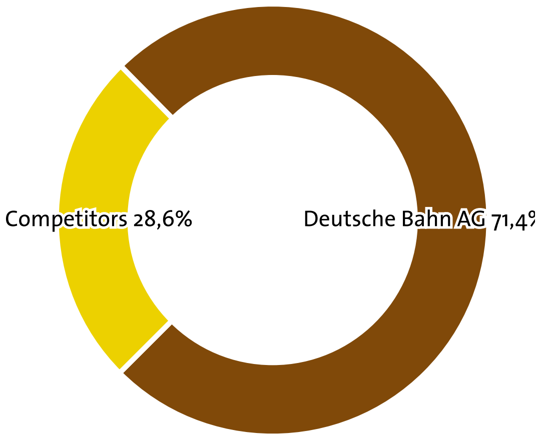

Figure 3: Market share in transport services in long-distance passenger transport in Germany 2012

in % passenger-kilometres (pkm) – Source: own

Growth in the rail freight market is predominantly down to the competitors' success, although this does not mean that DB Schenker Rail has sustained outright losses. Unit-train traffic and combined transport are the driving forces behind this development.

By contrast, single-wagon traffic is the market segment with the least competition. Only DB Schenker Rail can maintain the transport network required for this in Germany. Although single-wagon traffic has been stagnating for years (accounting for approximately 40 % of rail freight transport), the market leader is not prepared to give competitors extensive and non-discriminatory access to its single-wagon traffic network. Policymakers have not yet realised how much synergy potential in the rail sector remains untapped. This is particularly good news for the rival HGV sector.

It is encouraging that competitors have now reached an overall size which can no longer be dismissed as a »negligible quantity«. Nonetheless, it remains to be seen how the currently low margins develop when even the market leader is facing considerable economic difficulties despite its inherent economies of scale.

- Long-distance passenger transport is still the problem child of the rail sector, although the range of services offered has improved slightly following the massive cutback in InterRegio services 11 years ago. However, the situation is noticeably marred by the lack of reserve and new trains as well as quality issues on all fronts, including lamentable operational stability with trains all too often arriving in reverse carriage configuration. Luckily, passengers have so far not been influenced by this (partially due to the lack of alternatives) and are making increased use of long-distance passenger transport. Intramodal competition in the rail sector itself is stagnating at a barely perceptible level. At any rate, the launch of the Hamburg-Köln-Express (HKX) in July 2012 provides passengers with at least one popular and cost-efficient alternative to DB, even though the vehicle supplier problems have not yet been resolved. Although competition on individual routes is limited, DB is already taking defensive measures (higher quotas of cheap tariffs, more modern rolling stock). Marketing is also being made more difficult for newcomers.

At an intermodal level, long-distance bus services are a serious source of competition that may be able to put pressure on DB's policy of high prices in long-distance passenger transport.

In summary, developments in regional rail transport and rail freight transport are comparatively positive, while long-distance passenger transport is trailing behind. However, we are still a long way from normal market functioning, and we will never achieve it so long as an integrated company determines up to 50 % of its competitors' value-added in the transport sector.

Unsatisfactory infrastructure regulation

Particular attention must be paid to rail infrastructure. As a natural monopoly, it is most economically effective to have rail network, stations, service facilities and traction current feeder cables operated by a single provider. Rail infrastructure was allocated to Deutsche Bahn at the time of the railway reform. From a competition viewpoint, the drawback of this solution is clear: the infrastructure is in the hands of a company that not only owns it but uses it in competition with other rail companies. From a business point of view, it is perfectly understandable that the integrated company should exploit its dual role to keep competition in the rail sector in check. Economically it is alarming, as it risks generating deadweight losses: this is because it is no longer necessarily the best service providers that establish themselves on the transport markets, but rather those with the best access to infrastructure.

The neatest solution for preventing such a situation would be the complete separation of the network and its operation, something which was openly discussed during the rail reform. However, following pressure from DB and the trade unions, political will in Germany has shifted, so that a majority now reject the idea of separation. Only the European Commission in Brussels is now pushing for this solution, although its chances of success are very small given the opposition from Germany and other countries.

Rather than complete separation, Germany advocates the regulation of infrastructure operation alone. This basically means that uniform access requirements and usage fees would apply to all parties authorised to access rail infrastructure. DB's rail companies would no longer have the competitive edge they gain from being part of the DB group.

What should work in theory proves difficult in practice. Experience in Germany shows that, when in doubt, Deutsche Bahn knows how to exploit every loophole to limit competition. Examples include:

- the ongoing dispute with the German Federal Network Agency, access parties and now the civil courts regarding the structure and amount of fees for using tracks and stations;
- the legal dispute on whether or not the traction network is subject to regulation;
- the »generous« reservation of rails in service facilities to make it more difficult for other rail companies to access shunting yards.

The Federal Network Agency has, at times with the help of the courts, had some success in improving the access conditions for rail infrastructure.

In addition to »traditional« rail infrastructure, more areas have now been revealed as needing regulation. Initially, competitors had to fight hard just to be included in DB timetables. There is still an absence of non-discriminatory rules governing access to marketing or the traction current supply. The discrimination against competitors is particularly obvious in relation to traction current, where the discount system is clearly biased in favour of DB rail companies. The failure to pass the Railway Regulation Act was a missed opportunity to improve the legal frameworks for all areas requiring regulation.

The Federal Network Agency could not grant the request to limit the fee increases for using infrastructure. According to the BAG-SPNV market report, infrastructure costs (tracks, stations, energy) make up around 47 % of all production costs incurred in railway operations. DB can claim this amount for itself, regardless of whether it provides the transport service.

It would be missing the point to blame Deutsche Bahn for its behaviour. The company interprets the regulations as it sees fit and legitimately tries to exploit loopholes for its own benefit. The resulting hurdle race is exhausting for competitors. They are already at a disadvantage compared to DB due to their size, but obstacles to market access caused by inadequate legal regulations further exacerbate the difficulties they face in performing their activities.

Competition as a way to secure the future

The passivity shown by policymakers bodes ill for the rail sector's ability to operate in the future. Obstacles to competition and rising infrastructure costs are increasing the cost of rail travel and damaging intermodal competition as a whole. In this regard, experience in Germany shows that improved regional rail transport and rail freight transport services would not have been possible without the competitors – at least not with the same economic conditions for all stakeholders. Demanding fair competition is not an ideological end in itself, as some critics of competition claim.

The rail sector's long-term competitiveness must take priority over short-term proprietary interests. It is the job of politicians to create the necessary framework conditions to achieve this.

The greatest challenge for the rail sector is finding sufficient funding for infrastructure and regional rail transport. With the previous mean amount of funding provided by the Unbundling Act (Entflechtungsgesetz) now extended until 2019 (as well as the individual decisions on appropriation made within the federal states), one pressing problem has been resolved in the medium term. Many others still remain:

- The transport sector seems to be in a comfortable position in that there is social consensus on greater funding. At least, there were no fundamental objections to the findings of the Daehre or Bodewig commissions. However, this offers no guarantee of improved financing. It remains to be seen which measures and instruments the federal government will focus on. In any case, the future government must deal with the constitutional debt limits that will apply nationally from 2016 onwards. These keep the government's borrowing to a minimum. According to the Federal Ministry of Finance, borrowing would have already complied with these limits (albeit under economically beneficial framework conditions) in 2012, with a structural new debt of 0.34 %.

  As of 2020, these debt limits will also apply for state government budgets, whose current situation is less rosy. There is only leeway for additional expenditure if items in the budget are reshuffled or other additional revenue is generated at the same time. However, even assuming that this happens, there is no guarantee that the rail sector will be granted any of the additional funding. Other sectors (such as education and health) could also claim that they urgently need more funds. Within the transport sector, rail transport must also go head to head with the road sector.
- The extension of the Performance and Financing Agreement (Leistungs- und Finanzierungsvereinbarung [LuFV]) for at least two years boosts funds by approximately € 250 million per year, giving the sector a bit of breathing space. This also gives the government an opportunity to review both the future amount and, more importantly, the content of this Agreement. Experts have long criticised the LuFV, saying that it is barely suitable for maintaining the quality of the infrastructure. There is a lack of effective parameters for assessing the quality of the network, nor are there incentives for infrastructure operators to enhance the quality of the network.
- The amended version of the Public Transport Regionalisation Act will be negotiated between the national and state governments over the next few years. The result will determine how much leeway the federal states will have when ordering regional rail services. Both the maximum amount and the adjustment rate will be significant. In the past, the regionalisation funds were adjusted below the annual variations in the fees for using the infrastructure; as a result, the amount of funds available for operation diminishes year on year. Regional rail transport will not grow if the national government continues to apply the logic whereby it takes

back part of the regionalisation funds via the DB dividend. Stabilising or even expanding the offer will only be affordable if the authorities have more financial leeway to order transport services. This can be achieved through more funds from the national government or making savings in infrastructure, for example. In return for a secure source of funding, the government will also demand more transparency on how funds are spent.

- It is of the utmost importance that discussions on financing do not shift the focus away from the problems surrounding regulation. Genuine incentives to reduce infrastructure operation costs must be implemented. Prices and costs must be transparent. Regulation must also deal with changing problems more flexibly, and must be provided with a system of general abuse control. Traction current supply and marketing have now proved to be as worthy of regulation as the use of tracks and stations.