



**RESPONSE BY THE EUROPEAN PASSENGERS' FEDERATION
TO THE PUBLIC CONSULTATION ON THE
MID-TERM REVIEW OF THE WHITE PAPER ON EUROPEAN
TRANSPORT POLICY**

- 1) The European Passengers' Federation (EPF) is an association of passenger organisations and bodies promoting sustainable mobility. We work with operators and decision-makers at the European level to promote the interests of passengers and we campaign for the promotion of passengers' rights throughout Europe. The Federation is committed to improving standards on all modes of public transport in Europe. Our associated organisations are based in thirteen European countries and, between them, cover over 75% of the population of the enlarged European Union.

Attitude to White Paper

- 2) EPF wholeheartedly supports the central objective of the White Paper *European transport policy for 2010: time to decide*. The White Paper makes it clear that the European Union that a modern transport system is required to meet the needs of a vigorous European Union and that this must be sustainable from an economic and social as well as from an environmental viewpoint. Sustainable transport systems in Europe are unlikely to be delivered to their full potential until an acceptable way can be found of internalising for all modes those costs that are currently externalised: for example, as long as polluters are exempted from bearing directly the costs to the community of their pollution the market will fail to achieve the optimum allocation of scarce resources. Without acceptable monetary means to capture these costs it is essential to intervene in the operation of the market in order to moderate the potential damage to sustainability. The White Paper, properly implemented with policies carried into effective fiscal measures and suitable regulatory enforcement at European level, sets out the means. Implementation should facilitate delivery of a better balance between private and public modes of transport.

Recent trends in the transport market: overview of issues

3) As an active participant in the group established by the Commission that is concerned with its Rail Market Monitoring Scheme (RMMS), EPF is aware of the trends in rail-borne passenger and freight traffic. A number of issues stand out for us. It has not yet proved possible to ensure a radical shift throughout the EU in the balance between different modes of the sort envisaged in the Transport White Paper (with the intention that rail should increase its market share of passenger traffic from 6 to 10% and of goods traffic from 8 to 15% by 2020). However, the evidence provided to RMMS suggests that significant growth in market share is more likely where member-states that have facilitated liberalised operator access. It is clear that fair access is facilitated by effective independent regulation and also that such regulation is vital in moderating the excessive impacts of unrestrained competition. We believe that the rebalancing of Europe's transport systems may have been held back by a number of factors which should be the subject of further review and possible action by the European Union.

- First, we are aware that the degraded state of the rail infrastructure (generally, in many of the New Member States and, especially, in relation to secondary routes and operating facilities in many of the EU-15) means that Europe's rail network is often operating at the extent of existing capacity, thus limiting the scope for new traffic without urgent investment. The programme of investment in the TEN-T corridors, in isolation from the investment needs of the wider system, is insufficient to facilitate the necessary modal shift.
- Secondly, we are informed that there is a tendency amongst a number of national railway administrations to withdraw from the transport of 'uneconomic' traffics in preparation for more competitive market conditions. Such business decisions may fail to reflect adequately the wider societal and environmental calculations that are central to sustainable development, given the nature of commercial accounting. There is need for a common investment appraisal methodology that enables sustainable development issues relating to different modes to be accommodated fairly, taking account of societal and environmental as well as commercial considerations.
- Thirdly, the failure of the EU's institutions to honour the agreements established in 2001 at the Gothenburg Council (reflecting the "user pays" principle) fuel perceptions that the EU's transport market arrangements continue to give unfair

advantage to unsustainable road and air transport. This was illustrated by the way in which the *Eurovignette* proposal was undermined with the encouragement of powerful, self-interested, industry lobbyists.

- Fourthly, we believe that an implicit elitism may colour transport policy making at the European level, to the general disadvantage of all of Europe's citizens. One example can be seen in the support given for the welcome development of a premium High Speed Passenger Network while, unfortunately, 'classic' services such as night trains and socially important inter-regional express services are allowed to wither. Another example is reflected in the hierarchy of passengers' rights provided for or proposed by the Commission: for example, air travellers, whether cross-frontier or domestic, are entitled to compensation for delay and cancellation; the proposals for rail are significantly less comprehensive and those mooted for bus and coach passengers are of an even further diminished order.
- Fifthly, it is apparent to us that some railway administrations have been particularly lax in accommodating either the letter or the spirit of the Commission's *Railway Packages* and that there appears to be a shortage of instruments at European level (other than cumbersome recourse to the European Court) to enforce regulatory compliance. We believe that there may be a case for developing the European Railway Agency further, equipping it to act as a strengthened, authoritative, independent European regulatory body, going beyond its existing competences in relation to safety and technical standards for interoperability.
- Sixthly, and despite the White Paper's claim to put users at the heart of transport policy, it is clear that users' organisations (and especially those representing passengers) are still under-resourced and under-represented at European level in comparison to manufacturers, operators, other social partners and national railway administrations. As a result, the restrictive, nationally-focused self-interest of the industry can take precedence over the interests of users. We consider that, if a true European transport market is to develop, a clear and effective dialogue with users' representatives is a precondition of consumer understanding and, consequently, of devising a European transport system that overcomes the current market failure.

EPF considers that Passengers generally have some particular concerns in relationship to transport provision: these may be summarised around three themes - affordability, dependability and ease of use (e.g. 'easy to find out and book' or 'easy to access' or just 'easy to use'). For each proposed development, in addition to asking "What is in this for the User?" it is also worth asking "Does this make a particular transport more affordable?", "Will this cause it to be more dependable?" and "Will it make it easier to use?". These tests are deceptively simple at first sight. In practice, their delivery encompasses an enormous span of issues ranging from the price or reliability of an item of equipment to issues such as those surrounding the continuing supply costs and risks of dependence on a specific energy source. Affordability, dependability and accessibility are not always issues that are upper-most in the thinking of Europe's transport oligopolies – especially where a long history of state support has blunted commercial reality or where autarchic tendencies displace what would be the natural competitive tendency to favour cross-frontier standardisation.

The case for effective policy implementation

- 4) We draw particular attention to the need for effective implementation of policy. There have been instances in the recent past where it appears that the welcome initiatives of the Commission in the transport field have been over-whelmed by the political will of well-entrenched vested interests. The effectiveness of the *Eurovignette* proposal as amended was undermined by the failure to secure agreement of member states on ways of capturing external costs such as congestion, pollution and safety, despite the clear endorsement of the Gothenburg Council in 2001 of the 'user pays' principle and the general direction of the White Paper in favour of the integration of infrastructure costs and external costs in a new system of transport taxation. This display of institutional cowardice undermines the authority of the EU's decision-makers and institutions in the eyes of informed citizens.

- 5) EPF is concerned by the reported dilution of those aspects of the proposals for a regulation on *Rail Passengers' Rights* relating to compensation, the domestic as well as the international journeys and would welcome strengthened obligations on through ticketing, the provision of information on through journeys involving more than one operator and for systems' inter-compatibility for reservations, information, ticketing and inter-modal travel. We note the effectiveness of the lobbying pressure from

well-funded oligopoly interests over the *Rail Passengers' Rights* proposals and are concerned that, in the absence of a well-founded countervailing users' voice, the activities of the trade lobbyists may have undermined the White Papers' claim that users are being placed at the heart of transport policy.

- 6) The vulnerability of the Commission's position has been echoed in the slow progress that has been made in implementing the *Railway Packages*. Directives appear to be ignored in both letter and spirit by certain national administrations, inaction facilitated by the skills of well-funded industry lobbyists some of whom appear to have a direct route to the ears of their national administrations. The EPF, despite its relative infancy and present lack of access to the level of funding available to industry lobbyists, stands ready as a *bona fide* transport users' organisation to support the Commission in those endeavours that benefit passengers. We believe that there may be a greater role at European level for some sort of regulatory enforcement agency provided that a way can be found for reflecting users' concerns in its activity.

Putting Users at the heart of Transport Policy

- 7) EPF attaches great importance to the emphasis that the White Paper gives to placing users at the heart of transport policy. The performance of the institutions of the EU should be measured by the extent to which public transport provision meets the needs of passengers and of others with a stake in the success of public transport (which may include groups who are not primarily public transport users but are the victims of congestion, pollution and other environmental and social pressures reflecting transport usages and needs). EPF welcomes the initial efforts made by the Commission to secure the representation of passengers' interests institutionally, as with its own participation in a number of EU bodies concerned with the rail sector such as the European Railway Agency, Rail Market Monitoring Scheme, and the European Rail Research Advisory Council. We believe that such users' representation should be the norm in all EU bodies concerned with the transport sector and that, where such representation already exists, the Commission should make resources available to ensure that the potential effectiveness of users' representation is not curtailed by the relative financial weakness of users' groups in comparison with the financial and organisational strength of operators, manufacturers and other social partners.

- 8) The case for effective passengers' representation will be incontrovertible as long as market failure continues to characterise transport provision. There are many who would argue that public transport can never rely on the full benefit of open competition and total reliance on market forces – there is an over-whelming case for continuing regulation in a sector which is often naturally monopolistic or oligopolistic and where service provision can have wider social, economic and environmental impacts than getting from 'A' to 'B'. It is quite proper that governments should be involved in the delivery of these services, either because of their public policy interest in the specification and consequent impact of the service or as the source of subvention for a service. But governments alone are not well placed to determine the needs of users. In the absence of a well-functioning market mechanism it is vital to ensure adequate and effective users' representation. This requires active facilitation since, without it, users' are the weakest partner in the relationship between operators, manufacturers, other social partners, governments and users.

Key considerations for passengers

- 9) Passengers generally have some key considerations in relationship to transport provision in addition to an over-riding concern that all transport systems should be as safe as is practicably possible: these concerns cover affordability, dependability and improved ease of use. They provide a useful test from a passenger perspective with which to evaluate any proposed development. The considerations are deceptively simple at first sight. In practice, their delivery encompasses an enormous span of issues ranging from the reliability and price of an item of equipment to issues surrounding the continuing supply costs and risks of a specific energy source. Affordability, dependability and improved ease of use are not always issues that are upper-most in the thinking of Europe's transport oligopolies – especially where a long history of state support has blunted commercial reality or where autarchic tendencies displace what would be the natural competitive tendency to favour cross-frontier standardisation. EPF considers that the mid-term review should assess the efficacy of the White Paper in establishing affordability, dependability and ease of use as essential facets of a sustainable transport system for Europe.

The EU's implicit hierarchy of concern

- 10) It follows from these concerns that, while welcoming the concept of key transport corridors for the Trans European Network and the promotion of High Speed Passenger Network as sustainable alternatives to air travel and motorway congestion, EPF also considers that action is needed to ensure that the social and environmental benefits of the 'classic' routes are maintained and, where appropriate, developed. For example, we are concerned by the erosion of the night-train network in Europe. Operators sometimes attribute the network's decline to the need under Community *acquis* for such services to bear burdensome infrastructure and externalised costs of a sort not yet planned for road and air competitors. This lack of even-handedness does little to promote a competitive transport system whilst undermining something that has facilitated freedom of movement throughout our continent for more than a century. EPF believes that there is a case for the Commission to examine the part that it might play, itself, in providing services of general interest at European level.
- 11) EPF is aware that some observers incline to the view that the development of the High Speed Passenger Network whilst 'classic' services founder allegedly as a consequence of the by-product of Community regulations is a reflection of an implicit hierarchy of importance applied by the Commission in its transport policies. In this hierarchy, air travel is at the top, followed by high-speed passenger services and coach and bus travel is apparently near the bottom. There is some evidence for this in the Commission's approach to the protection of passengers' rights. The provisions of the Directives implemented in 2005 relating to air passengers' rights are generally more comprehensive than those proposed for rail or bus and coach passengers – especially when air passengers are entitled to compensation for delay for two hours or more to flights within or beyond a member state of less than 1500 kilometres under Regulation 261/2004, while the same will not apply to a rail or bus or coach service, whether international or not. The arrangements for the protection of the rights of passengers should be logically consistent where possible. The efficacy of any system that is designed to protect the rights and obligations of passengers depends on its transparency and the ease with which it can be understood by users and operators. We therefore favour a system for the protection of passengers' rights that is common to the various modes that may be used, except in as much as there may be issues to be addressed which are necessarily peculiar to a particular mode. A

simple system is more likely to be understood by passengers and operational staff. If the system is understood, it is likely that more effective use will be made of it. Its potential value will be greater to all concerned.

Conclusion

12) In summary, therefore, EPF considers that the White Paper established a welcome strategic approach to the development of a modern, sustainable transport network in Europe that is still relevant to the needs of the EU. The last five years have demonstrated that, if there are shortcomings in the approach of the White Paper, the shortcomings generally arise from a failure to secure adequate implementation of the policies that it describes, despite the authority of the Gothenburg Council in 2001. The rebalancing of the transport sector was always going to be a challenge to the authority of the institutions of the European Union; the sector's history – and especially that of rail - is closely bound with that of some of the most entrenched, inward-looking and self-justificatory industry attitudes remaining anywhere in the EU. Their preservation is seldom in the interests of passengers. Passengers seek affordable, dependable, easy to use inter-modal public transport throughout the EU. The users' voice must be heard above those of manufacturers, operators and other social partners. Given the market failure that is intrinsic to almost all collective transport provision, passengers are the weakest part in the network of relationships that underlie it. The passengers' voice requires the positive institutional support and encouragement of the institutions of the EU. A reaffirmation of the Transport White Paper's core strategy and a renewed acknowledgement that the Commission is intent on putting passengers at the heart of transport policy raises the standard for a sustainable Europe that is relevant to its citizens.