



# Conference on „Sidings & Last Miles“

House of Rail Conference on

„Sidings & Last Miles“

28th November 2008, Brussels

- Point of view of rail regulator -

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## Bundesnetzagentur – Federal Network Agency

- regulates the
  - Electricity-, Gas-, Telecommunications-, Postal- and Railway Sector.
- Within railway regulation Federal Network Agency supervises:
  - the advancement of a non discriminatory access to railway infrastructure (rails, service facilities and services)
- and
- the observation of all access conditions for railway infrastructures (rails, service facilities and services).



## Selected results of Federal Network Agency's monitoring

(preliminary estimation)

- Railway infrastructure managers:  $\geq 500$ ,
  - Operators of service facilities :  $\geq 300$  with more than 20.000 facilities.
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- Railway undertakings (freight transport) particularly criticise :
    - State of track preservation (maintenance and management),
    - State of track improvement (investment),
    - Access to storage sidings.



## Access rights to service facilities - example (1)

### Chemical park - Industrial railways

- siding connected to chemical park infrastructure,
- infrastructures belong to different operators,
- operator of the siding intends to be served by other than chemical park's railway undertaking.

Discussion:

Is the chemical park obliged to open its infrastructure?



## Access rights to service facilities - example (2)

Terminal facility - Port of Hamburg

- terminal as siding within the port area,
- previously: exclusively given access right to one railway undertaking,
- however, a second railway undertaking demands access to terminal infrastructure.

Discussion:

Is the terminal obliged to open up its infrastructure for authorised applicants, i.e. further railway undertakings?



## Legal framework I

- Article 10a Directive 1991/440/EEC:
  - access to ports (listed in Annex I) and terminals (serving or potentially serving more than one final customer) that are part of Trans-European Rail Freight Network.
- Annex II Directive 2001/14/EC:
  - track access to service facilities and supply of services shall comprise a couple of facilities.



## Legal framework II

- According to Article 14 section (1) Allgemeines Eisenbahngesetz - AEG:
  - railway infrastructure companies have to ensure a non-discriminatory access to infrastructure (rails and service facilities) and usage of it.
    - exception: railway infrastructure just used for in-house freight transport, i.e. industrial railways.
    - counter-exception: track access to, and supply of services in, terminals and ports potentially serving more than one final customer.



## Legal framework III

- According to Article 10 Eisenbahninfrastruktur-Benutzungsverordnung - EIBV:
  - railway infrastructure managers have to set up network statements („conditions of infrastructure use“) for their service facilities to specify access rules.
- Access rights cover all service facilities, e.g. ports and terminals, with rail connection.



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### **Service facilities** (according to § 2 section 3c AEG):

- Infrastructure managers are obliged to grant access to:
  - refuelling facilities,
  - passenger stations, their buildings and other facilities,
  - freight terminals,
  - marshalling yards,
  - train formation facilities,
  - storage sidings,
  - maintenance and other technical facilities,
  - ports.



## Conclusions I

- Railway infrastructure managers have to ensure access and usage of infrastructure according to all authorised applicants.
- Sidings and last miles are regulated within the same legal framework as any other railway infrastructures.
- Complex discussion concerning transparent definition of public infrastructure vs. private sidings is still going on.



## Conclusions II

- Access rights cover all service facilities, e.g. ports and terminals, with rail connection!
- Authorised applicants can only effectively exercise their access rights if they are aware of their existence and scope!



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**Thank you for your attention.**

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