Study by the railway regulatory body of the market for access services for rail transport operators

Summary of final report

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Study by the railway regulatory body of the market for access services for rail transport operators

Summary of final report

Deloitte Oy

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FOREWORD

Freight transport on Finland's railways was deregulated in 2007. It will probably nevertheless still be some time before new railway undertakings enter the rail freight transport market. In a situation where there are several railway undertakings on the market, the availability of access services will be highlighted, as these services are of crucial importance to operations.

It is the duty of the railway regulatory body to ensure that the market functions smoothly and to ensure equality and non-discrimination in the treatment of operators. The regulatory body will resolve issues on the basis of appeals lodged and at its own initiative. According to the Railway Act (304/2011), the regulatory body is specifically required to ensure that the availability and pricing of access services provided to rail transport operators are non-discriminatory and comply with legislation.

In a situation where several railway undertakings engage in rail freight transport operations, the regulatory body may be required for instance to resolve issues related to the service obligation outlined in section 34 of the Railway Act (304/2011). For this purpose, the regulatory body must have a clear picture of the access services used in rail transport and the operators involved.

Deloitte Oy was commissioned to bring together information that the regulatory body may later leverage in making decisions pursuant to the obligation to provide services under the Railway Act. The study discusses track access to service facilities and supply of services as specified in section 3 of the relevant Government Decree (1059/2007) together with an assessment of whether these constitute structures that restrict competition or favour any individual operator on the rail transport market.

In Helsinki, 13. August 2012

Riikka Pulli

Head of Unit
Railway regulatory body

Contents

Abstract

The present study of the market for access services for rail transport operators discusses track access to service facilities and supply of services as specified in section 3 of the relevant Government Decree (1059/2007) together with an assessment of whether these constitute structures that restrict competition or favour any individual actor in the context of the rail freight transport market being deregulated. The purpose of the study was to bring together information that the regulatory body may later leverage in making decisions pursuant to the obligation to provide services in section 34 of the Railway Act (304/2011).

The study was conducted as an online survey among all owners of private sidings and rail transport operators known to the regulatory body. Additional interviews with selected key players were conducted. The study also included an assessment of the operations of the corresponding regulatory body in the UK from the perspective of the situation in Finland.

The current state of the access services covered in the study is given below in summary. More detailed service-specific descriptions may be found in chapter 2.

Use of electrical supply equipment

- The service area only includes overhead wire systems; the only owners and operators of overhead wire systems in Finland are the Finnish Transport Agency (which administers government-owned overhead wire systems) and VR. System availability will probably not require separate regulation; availability must be established together with the availability of rail capacity. According to current information, new railway undertakings in the freight transport market are not likely to use electric locomotives in the early stages of their operations.

Refuelling

- Several actors have refuelling sites, and actors principally only use their own refuelling sites. The only nationwide network of refuelling sites is owned by VR; other operators have individual refuelling sites in their respective areas of operation. Providing refuelling facilities for diesel locomotives will not be a major investment.

Use of passenger stations

- Passenger railway stations are owned and/or administered mainly by the Finnish Transport Agency and VR, but there are other individual owners too. At present, only VR uses these stations, and no change to this is forthcoming for as long as passenger rail transport is not deregulated.

Use of freight terminals

- Freight terminals are principally owned and/or controlled by customers of freight transport services. Certain individual terminals are owned and/or controlled by the Finnish Transport Agency and VR.

Use of marshalling yards

- The majority of Finland’s principal marshalling yards are in the national rail network administered by the Finnish Transport Agency. There are also minor marshalling yards in the major depots where freight transports originate and

in harbours; trains may be marshalled in these yards too. At the moment, no actor charges a fee for the use of marshalling yards.

Use of train formation facilities

- For the purposes of this report, this service area is considered to cover brake testing and hump shunting equipment. The facilities are owned and/or controlled by the Finnish Transport Agency and VR, and only VR is using them at present. No fee is charged for the use of facilities controlled by the Finnish Transport Agency.

Use of storage sidings and facilities and equipment needed for the maintenance and upkeep of rolling stock

- There are many unclear points in the definition of this service area, and it does not match that specified in the Directive or in the national legislation of the UK. Under the present study, the service area involves storage sidings, which in Finland are principally owned by VR. Rolling stock may also be stored in marshalling yards, for instance in harbours.

Use of maintenance and other technical equipment

- Several rail transport operators own and control equipment for the maintenance of rolling stock. They principally use only their own equipment and facilities and turn to other actors' resources only in case of an emergency. VR is the only actor in Finland that owns facilities and equipment customised for heavy-duty maintenance and wheel machining. VR offers the use of these to owners of locomotives that operate on private sidings, but has limited capacity for doing so.

The study showed that potential action by the regulatory body may be divided into short-term and long-term measures. 'Short-term' here refers to the next few years, covering the service needs of new actors that are at present planning to engage in rail transport. This period will probably feature the first ever occurrence in Finland of several railway undertakings operating at the same time, and the regulatory body may be called upon to resolve conflicts of interest between them. The regulatory body must develop procedures and expertise to be able to cope with this.

It would probably make sense to focus the resources of the regulatory body principally on service areas where disputes concerning the non-discriminatory availability of services might most easily arise. The present report indicates that the use of facilities and equipment for heavy-duty maintenance of locomotives and wheel machining is the most crucial such service area. In Finland, VR is practically the only operator to have such facilities and equipment, and according to VR it does not have capacity to spare for the needs of outside parties. VR does not consider its service obligation to extend to its maintenance facilities and equipment because there are other possible service providers too. On the other hand, actors entering the market consider that the services offered by other service providers are not economically competitive with the service standard enabled by the resources available to VR. The railway regulatory body must consider what its policy regarding the use of facilities and equipment for the maintenance of rolling stock will be.

Moreover, the regulatory body must in the near future propose an amendment of national legislation to further specify definitions of access services so as to make them unambiguous and consistent with the Directive.

If the long-term goal is to create a genuinely open and competitive market, the regulatory body must ensure that access service resources owned and controlled by VR will be available to all rail transport operators with no preference given to any individual operator, insofar as it is not economically feasible for other operators to invest in similar resources themselves. Ultimately, this might mean removing resources from VR to the control of a body independent of all rail transport operators. The report indicates that further consideration of such regulation is needed particularly in the service areas of refuelling, use of passenger stations, use of train formation equipment (when considered to include humps) and storage sidings.

1. Background and description of the study

Freight transport on Finland's railways was deregulated in 2007. No decision has yet been taken on deregulating passenger transport, but the EU is expected to undertake an initiative in this area in the near future. For a long time, VR Group (VR) has been the only railway undertaking in Finland. New freight transport operators will emerge in the near future. The Ministry of Transport and Communications granted an operating licence to Ratarahti Oy (Ratarahti) on 15 May 2012. Also, the Finnish Transport Safety Agency (Trafi) has issued a safety certificate required for railway transport operations to Proxion Train Oy (Proxion Train).

One of the duties of Trafi as the railway regulatory authority is to supervise and develop the functioning of the railway market. An essential part of this duty is to ensure that when rail transport is deregulated, the competition situation will be genuinely transparent and no individual actor will be favoured. To ensure equitable competition, the regulatory body must have an absolutely clear idea of what pricing models will be applied in access services in deregulated rail transport operations. This is of particular importance in the Finnish context, because the most important railway undertaking in the country today is also the leading provider of access services.

In order to determine what the acceptable pricing mechanisms might be, the regulatory body must compile a comprehensive chart of services, describing all access services for rail transport operators and the players involved. Thus, the study by the railway regulatory body of the market for access services for rail transport operators stemmed from the need of the regulatory body to gather information that may be leveraged in making decisions on the content of the obligation to provide services stipulated in section 34 of the Railway Act (304/2011).

The study involved examining the following areas of track access to service facilities and supply of services pursuant to section 3 of the relevant Government Decree (1059/2007):

- Use of electrical supply equipment
- Refuelling
- Use of passenger stations
- Use of freight terminals
- Use of marshalling yards
- Use of train formation facilities
- Use of storage sidings and facilities and equipment needed for the maintenance and upkeep of rolling stock
- Use of maintenance and other technical equipment

The basic services of the government-owned rail network provided by the Finnish Transport Agency pursuant to section 1 of the Government Decree (1059/2007) and other services provided by the Finnish Transport Agency pursuant to section 2 of the same Decree were thus excluded from the study.

The study was conducted as an online survey among all owners of private sidings and rail transport operators known to the regulatory body. Responses were received from about 56% of recipients. This means that a reasonable amount of information was returned, but the findings are not representative of the entire sector due to the low response rate. However, most of the non-responding recipients are

probably just owners of individual sidings and are thus neither providers nor users of the services studied.

For a long time, Finland had only one licensed railway undertaking. Yet VR and the Finnish Transport Agency are not the only bodies that own and/or control facilities and equipment relevant for access services. Several rail transport operators engaged in shunting on private sidings were identified in the study. Operators on private sidings typically own their own locomotives as well as facilities and equipment for their use.

However, it cannot be said that there is a functioning market for access services, because at present all the actors owning or controlling such facilities and equipment basically only use them for their own needs (except in emergencies). Operators engaged in shunting on private sidings do not need to outsource services, because they operate in a limited geographical area and can organise the access services they need themselves except for individual major overhauls. Similarly, VR does not rely on access services provided by other actors except in exceptional circumstances.

The information gained in the online survey on the availability of services and the present user situation was explored further through interviews. The interviews focused specifically on the availability of access services in harbours; being transport nodes, they were assumed to be challenging locations from the perspective of the regulatory body. Harbours do not have agreements with VR concerning transport operations in harbour areas; instead, all agreements related to freight transports are concluded directly between VR and the freight transport operators. Only the Port of Helsinki has an umbrella agreement ensuring non-discriminatory treatment of freight transport operators in the harbour area with regard to rail transport.

Another aim in the interviews was to explore the views of railway undertakings intending to enter the market in the near future. Because it may be assumed that not only Ratarahti but Proxion Train too will enter the market as a new railway undertaking, the study focused on measures that may be required in the near future concerning the needs of these operators. It should be noted, however, that the operating plans of Ratarahti and Proxion Train are as of yet so limited that their impact on the current market structure will be negligible, and the market still cannot be said to be genuinely deregulated.

Ratarahti aims to expand the shunting operations of Imatran Veturipalvelut Oy (Imatran Veturipalvelut) to include shunting in the national rail network. The current plans for this expansion are so limited that Ratarahti could continue to use the existing rolling stock access services controlled by Imatran Veturipalvelut. Therefore the operating licence issued to Ratarahti will not significantly increase the need for measures addressing the availability or pricing of access services.

Proxion Train aims to operate entire trains from one or more points of origin to one or more harbours. While this means that the operating area may be quite extensive in geographical terms, the network of operations would be very limited, and it would appear that Proxion Train also would have no need to rely on access services provided by other operators except in exceptional circumstances.

In addition to the need for measures in the short term, the study considered broader issues in the ensuring of equal and non-discriminatory availability of

access services; these long-term issues will eventually be more important than the short-term issues.

The following chapter is a review of the current situation in the availability and use of access services, outlined on the basis of the online survey and interviews for each service area.

2. Description of access services for rail transport operators

The description of access services for rail transport operators below include a definition and a market description for each service area.

As the service area descriptions indicate, in some cases the Finnish definition differs significantly from the English definition. One of the outcomes of the study was producing more detailed definitions for access services, given here in the service area descriptions. From the perspective of regulating the service market, it may be justifiable to evaluate whether the definitions of the services in national legislation should be further specified. Because the service areas under access services are at present not described in detail in the relevant Government Decree, one purpose of the study was to explore what services rail transport operators themselves consider to come under 'access services'. Therefore no definition of access services was given in the covering note for the online survey, and respondents thus had to decide for themselves. As might be expected, the responses received differ greatly from one another in this respect. At the same time, they highlight the need for defining the concept of access services in more detail.

The description of each service area includes conclusions for the regulatory body and points to be noted with regard to the service area as the rail freight transport market is deregulated. There is a summary of all these conclusions in chapter 4.

2.1 Use of electrical supply equipment

Definition of service area

'Electrical supply equipment' was interpreted by the survey respondents as including overhead wire systems in the rail network or in depot areas; heating transformers; recharging posts; and other equipment powered by electrical current, principally items for heating rolling stock. However, background work for the study indicated that in the context of access services 'electrical supply equipment' specifically means overhead wire systems, while all other electrically powered devices fall under 'additional services' as per Annex II section 3 of Directive 2001/14/EC, not implemented in national legislation. This reading is consistent with national legislation in the UK, where it is specifically stated that 'electrical supply equipment' only includes equipment supplying traction current.

Using the service

VR is the only user of the service, because it is the only railway undertaking in Finland with electric locomotives that use overhead wire systems. VR pays for the use of electrical supply equipment in its infrastructure charges. The Finnish Transport Agency has electrical supply agreements with Hansel, and it is under these that VR procures its electricity and pays the suppliers directly.

Conclusions and notes

Electrical supply equipment is principally owned by the government and may be considered part of the national rail network. Therefore its availability may be

considered to be included in the minimum access services provided by the Finnish Transport Agency, and no particular measures need to be undertaken even if more rail transport operators were to enter the national rail network.

In a situation where a third-party rail transport operator were operating on a private siding equipped with overhead wires owned by VR, it should be ensured that the third-party operator is allowed to use the overhead wires against a reasonable fee. However, such situations would be rare, because VR owns only very limited sections of overhead wire.

Because diesel traction may be used on the electrified rail network almost without limitation, the availability of electrical supply equipment cannot be considered to constitute a significant market restriction.

By contrast, the availability of electric traction in Finland is limited, as locomotive manufacturers are not interested in customising individual locomotives suitable for Finland's climate, track gauge and electrical supply systems. Therefore minor rail transport operators will be obliged to obtain diesel traction, the use of which involves challenges for the functioning of the market. One challenge is that the infrastructure charges on electrified railway lines are higher for diesel locomotives, which places operators using diesel traction at a disadvantage compared to the operator that has access to electric traction. Another challenge is that diesel traction is banned from certain electrified track sections, such as the tunnel leading to Vuosaari harbour in Helsinki. This study did not involve a comprehensive survey of track sections such as this. If there turn out to be several such track sections in the national rail network, this will limit access to market by new rail transport operators unless the availability of electric traction is improved through regulation somehow.

2.2 Refuelling

Definition of service area

The study indicates that 'refuelling' is considered to comprise the use of tanks and refuelling equipment at specific refuelling sites. Locomotives are refuelled by train crews.

Using the service

Operators principally employ their refuelling resources for their own use. Survey respondents are most probably involved in shunting on private sidings and therefore have their own refuelling services. Whether a respondent in the survey said that they provided refuelling services for parties outside their organisation probably correlates with whether they had outsourced their shunting services or not. In certain harbours, some freight operators have locomotives of their own and refuelling sites of their own.

Harbours generally do not maintain refuelling sites, and VR typically does not own refuelling sites in harbours.

Refuelling sites do not require major investments. In fact, refuelling can be managed with nothing more than a road tanker, assuming the railway line has a road running next to it. What is more important from the perspective of the rail

transport operator is that the refuelling sites are at appropriate geographical locations.

Conclusions and notes

The only refuelling site network with national coverage is owned by VR. Regional rail transport operators would be able to manage their refuelling needs without having to rely on services provided by other operators as far as fuel supply is concerned, which is what operators currently engaged in shunting on private sidings do.

If other nationwide operators were to enter the market, it may be cost-effective for them in the long run to use the existing service network. On the other hand, it would not seem to be an unreasonable investment for them to set up refuelling sites of their own.

One possibility would be to assign the administration of refuelling sites to an independent body offering refuelling services to all rail transport operators. This would seem to be an unreasonably heavy-handed regulatory measure at least in the short term, and it has also not been considered necessary in the UK.

2.3 Use of passenger stations

Definition of service area

The study indicates that 'use of passenger stations' is principally understood to mean access to station platforms and buildings, including facilities such as ticket offices and waiting rooms. By contrast, passenger information devices and systems and other similar minor infrastructure items were not considered to form part of this service area.

Using the service

At present, only VR uses passenger stations. Survey respondents considered the use of passenger stations to be a service area not relevant for them in any way.

Conclusions and notes

The use of passenger stations will most probably not cause any problems in the near future as far as the regulatory body is concerned, because rail passenger transport has not yet been deregulated.

In the long term, however, the use of passenger stations may need attention, because a single railway undertaking owns a significant percentage of Finland's passenger stations. If this issue becomes relevant, it should be considered whether, in the interests of ensuring equal access, all the passenger stations currently owned by VR should be transferred to the management of an independent body. According to rail transport operators entering the rail freight transport market, all rail transport operators should have access to all the relevant passenger stations.

2.4 Use of freight terminals

Definition of service area

The study indicated that 'use of freight terminals' is principally understood to mean access to logistics centres or individual freight terminals. Loading sites along the rail network were also considered 'freight terminals' in this sense, above all loading sites for raw timber.

Survey respondents considered a 'freight terminal' to be anything from a loading dock and warehouse facility to timber loading points and actual freight terminals. Certain respondents explained in more detail that they also own facilities and equipment for loading and unloading other than buildings and structures, such as mobile jibs or gantry cranes.

Using the service

Freight terminals in harbours are typically owned by cargo operators, who agree on rail transport deliveries directly with freight transport operators.

In individual cases, freight terminals are owned by the port authority or the city. In such cases, the owner charges rent for the freight terminal.

Maintenance of the sidings leading into a freight terminal is typically based on an agreement between the track owner and the owner or lessee of the terminal, transferring responsibility for basic maintenance of the track from the track owner to the owner or lessee of the terminal.

Some loading sidings are privately owned by VR (e.g. at raw timber loading sites). Many other operators too own various terminals and loading/unloading sites, typically in the immediate vicinity of a siding privately owned by the operator.

Conclusions and notes

Because the majority of freight terminals are owned by customers of freight transports, access to freight terminals will most probably not become a problem for rail transport operators in a multi-operator context as the market is deregulated.

In certain individual cases, the regulatory body may need to take action in the short term if new rail transport operators require access to terminals owned by current railway undertaking or rail transport operator operating on private sidings and are not provided such access at reasonable terms. Such a situation might arise specifically in the case of raw timber loading sidings. On the other hand, it is not certain that such individual cases would require intervention, because they are of marginal significance to the functioning of the market as a whole.

2.5 Use of marshalling yards

Definition of service area

The study indicates that 'use of marshalling yards' is considered to cover all portions of the national rail network where it is possible to marshal trains. The largest marshalling yards are in Tampere, in Kouvola and at Ilmala. Tampere and Kouvola

in particular would need to be covered under the 'Use of train formation equipment' service area because of their hump shunting facilities. There are smaller marshalling yards in all harbours and at most major points of origin for freight transports.

Survey respondents noted in most cases that the resources they own related to the use of marshalling yards include land areas, tracks laid in those areas, and technical equipment and devices related to the track such as points. The Finnish Transport Agency in its response noted that it owns not only the marshalling yards in the national rail network but also most of the railway office buildings.

Using the service

At present, only VR uses the marshalling yards in the national rail network. In privately owned rail areas, marshalling yards are used by VR or by operators engaged in shunting on private sidings. There is thus some experience in the sector in the shared use of marshalling yards, and this has hitherto not caused any problems even though traffic control systems are provided solely by VR.

None of the respondents who own or control resources reported charging any fees for the use of marshalling yards. Port authorities in particular noted that rail transport operators typically store their rolling stock in marshalling yards owned by harbours, and so far no fees have been charged for this.

In harbours with heavy traffic, trains are typically made up and broken up in a marshalling yard outside the harbour proper, managed by the Finnish Transport Agency. Some harbours own a marshalling yard within the harbour area where shunting can be undertaken as necessary.

Conclusions and notes

Because access to marshalling yards is closely connected with the general allocation of rail capacity managed by the Finnish Transport Agency, in the case of several railway undertakings entering the market it should be ensured that they all have equal opportunities for reserving and using them, particularly the large marshalling yards.

In the short term, the use of marshalling yards will not constitute a restriction on the market, because the railway undertakings entering the market in the near future do not consider that they will be needing marshalling yard services in the early stages of their operations. This is mainly because these railway undertakings will be focusing on local shunting or on operating entire trains.

In the long term, equal access to marshalling yards may be ensured for instance by the Finnish Transport Agency in the context of allocating rail capacity to rail transport operators. A study of the Finnish Transport Agency indicates that it might be justifiable to revise the basis for infrastructure charges to include a fee for using marshalling yards, which would ensure that their capacity is more optimally allocated to the various operators. However, it should also be noted that even in the UK the majority of rail freight transports are point-to-point operations with complete trains, with no need for shunting en route.

The port authorities see no problem in several rail transport operators having a simultaneous presence in harbour areas. The port authorities consider that it would

not be a critical requirement to have freight operators deal with a single rail transport operator granted exclusive access. Traffic control in and out of the harbour is what will probably become an issue. This is already being addressed in the rail network managed by the Finnish Transport Agency and is therefore not seen as a challenge specific to harbour areas.

2.6 Use of train formation facilities

Definition of service area

The study indicates that 'train formation facilities' are considered to include equipment such as brake testing equipment and other resources connected with train formation. Actually, the term 'train formation facilities' used in English can be considered to be broader, encompassing more than just the equipment needed for train formation. This broader interpretation would include the shunting humps at the Tampere and Kouvola marshalling yards.

Using the service

At present, VR is the only operator that uses train formation facilities in the sense understood in this study. VR mainly owns these facilities itself, and in those cases where VR considers that the facilities are owned by the government and administered by the Finnish Transport Agency, VR pays no fees for their use.

Conclusions and notes

Train formation facilities such as brake testing equipment are not critical for the operations of rail transport operators. These facilities do reduce the time taken to make up trains, but it is entirely possible to engage in freight transport operations without brake testing equipment. Also, such equipment apparently does not represent a substantial investment.

Equal access to hump shunting is probably very important to ensure in the long term, but in the short term no high need is likely to arise, as operators about to enter the market do not consider that they need such a facility. If it proved necessary to ensure equal access to marshalling yards with shunting humps, their operations could be provided as a separate service that the Finnish Transport Agency could put to competitive tendering.

2.7 Use of storage sidings and facilities and equipment needed for the maintenance and upkeep of rolling stock

Definition of service area

The study indicates that the 'use of storage sidings and facilities and equipment needed for the maintenance and upkeep of rolling stock' is considered a rather vaguely defined service area and not entirely distinguishable from the last service areas listed ('Use of maintenance and other technical equipment').

In the international comparison undertaken in the study, it was found that the English title of this service area, 'storage sidings', had been augmented in the Finnish translation to include not just storage sidings but other 'facilities and equipment'

too. The Finnish title, unlike the English title, includes facilities and equipment that in the English version of the Directive unequivocally belong to the last service area on the list.

Using the service

It has been found particularly in harbour areas that VR stores freight trucks on storage sidings and marshalling yards without being charged fees, even though the tracks in question are owned by the port authority or the city.

One respondent considered that VR owns quite a few storage sidings. Another respondent noted that this service area may also encompass the storage of passenger coaches; these must be hooked up to an electrical supply during storage. This service area is therefore critical for rail passenger transport operators.

Conclusions and notes

The study indicates that railway undertakings entering the market in the near future have no particular need for using storage sidings owned by VR.

In the long term, it may prove problematic for access to storage sidings that one rail transport operator owns a significant number of storage sidings.

The need for storage sidings is alleviated by the possibility of using marshalling yards for storage as needed. It is possible that owners of sidings will become more interested in charging fees for storage of rolling stock, especially if more than one operator uses them.

2.8 Use of maintenance and other technical equipment

Definition of service area

The study indicates that the 'use of maintenance and other technical equipment' is considered a rather vaguely defined service area and not entirely distinguishable from the previous service area ('Use of storage sidings and facilities and equipment needed for the maintenance and upkeep of rolling stock').

Respondents named the following as belonging to this service area: wheel lathes, derailers, train and vehicle scales, railcar shunting machines, railcar winches and other devices required for lifting or moving rolling stock.

Most of the online survey respondents erroneously interpreted this service area as involving maintenance and other technical equipment required for track maintenance, not rolling stock maintenance. Therefore the results of the online survey are only indicative with regard to this service area.

Using the service

From the perspective of the undertakings seeking to enter the market that were interviewed, the most significant obstacles to entering the market is the maintenance and other technical equipment for the maintenance of rolling stock, which require substantial investment.

A particular cause for concern was the need for major overhauls of locomotives, whether regular renovations or because of damage. Similar concerns were not voiced for maintenance of railcars or minor maintenance procedures, because rolling stock is easier to move for maintenance. Rail transport operators currently operating on private sidings have their own maintenance facilities and equipment for this purpose.

Port authorities do not own maintenance or other technical equipment for the maintenance of rolling stock. Also, there are usually no locomotive sheds or similar facilities in harbour areas for performing maintenance. Emergency maintenance is typically carried out at marshalling yards or on a section of track with no active traffic at the time.

Railway undertakings seeking to enter the market found it difficult to believe that any other operator besides VR could have a profitable business interest in acquiring the facilities and equipment needed for major locomotive overhauls and to offer access services involving such facilities or equipment to rail transport operators. Critical equipment includes wheel lathes, which rail transport operators regularly require in the maintenance of their rolling stock. The study did reveal that some operators own equipment that could possibly be used as wheel lathes. Turning a wheel with such equipment would last much longer than usual, however, and be more complicated.

VR does offer wheel machining services in a minor way to rail transport operators operating on private sidings and to companies engaged in track maintenance. According to VR, its wheel lathes are used almost to full capacity in maintaining VR's own rolling stock, and VR has no potential for offering regular service capacity to other operators. VR can also not be required to invest in additional capacity to meet the needs of other operators.

Conclusions and notes

There are some normal rolling stock maintenance service providers on the market, but their offering may be restricted to local contexts. From the perspective of the regulatory body, it should be ensured in the short term that maintenance services especially for locomotive stock are available; such maintenance is more demanding for rail transport operators than the maintenance of other rolling stock because of the greater weight of the locomotives. It may prove to be a particularly difficult challenge that the capacity currently available for certain types of maintenance is already limited and that a broader service supply may not emerge naturally due to the major investments required.

In addition to the supply of services, the regulatory body should also consider the response times to ensure that all rail transport operators have equal access to services and that mechanisms favouring a particular operator are not created or perpetuated.

3. Comparison with the UK

Comparison with the UK is an interesting opportunity for juxtaposing the situation in Finland with a market where rail freight transport was deregulated 20 years ago.

The rail market in the UK was deregulated with the privatisation of British Rail, the government-owned rail transport operator, in the early 1990s. Freight transport was divided up into six companies. Five of these later merged to form the English, Welsh and Scottish Railway (EWS), which in 2007 was acquired by Deutsche Bahn. However, several other operators have entered the market, and the competition situation in rail freight transport is robust.

The UK differs from Finland particularly in that there are several major players in the rail freight transport market, and these are better balanced than VR and the new railway undertakings in Finland will be.

The Office of Rail Regulation in the UK regulates and sets prices for minimum access services offered by the national rail network management company Network Rail to rail transport operators. As regards the access services covered in this study, the ORR allows the availability and pricing of the services to be determined on the market. The ORR only reviews the service obligation of these operators in cases where a rail transport operator lodges an appeal against unfair pricing or restricted access. Appeals are only processed in a situation where the service in question is not otherwise available on the market. Where an alternative service is available, but using it is not economically feasible, the ORR considers that the service obligation exists.

The ORR publishes all appeals lodged and all decisions concerning appeals on its website. (http://www.rail-reg.gov.uk/server/show/nav.2010).
The ORR has processed complaints concerning, among other things:

- rail movements in a harbour area,
- prices charged to rail transport operators for using the HS1 high speed rail line,
- the bases for user fees employed by Network Rail.

In an appeal concerning the operations of the Felixstowe Dock and Railway Company, the ORR was requested to rule whether rail access to the port was being fairly allocated between two rail transport operators or whether one of them was being favoured. In its decision, the ORR found that the port had not favoured one of the rail transport operators. The ORR did, however, find fault with the way in which the company presented the new rail capacity allocation principles, and also issued recommendations for improving procedures at the port.

With regard to an appeal concerning unclear charging principles for the HS1 high speed railway line, the ORR directed the charging body to publish an up-to-date Network Statement so that rail transport operators will have sufficient information on current charges and will be able to calculate the costs of operations to rail transport operations on HS1.

With regard to track prices charged by Network Rail, the ORR ruled that they were discriminatory against another rail transport operator and directed Network Rail to

change their charging framework and to compensate the rail transport operator which the ORR ruled had been discriminated against.

In addition to its determinations, the ORR has published a guide (http://www.rail-reg.gov.uk/upload/pdf/275.pdf) to describe its views of the service obligation and the conditions under which a rail transport operator may lodge an appeal with the ORR. A similar guide will probably be needed in Finland as new railway undertakings enter the market.

Network Rail publishes an annual Network Statement (http://www.networkrail.co.uk/WorkArea/DownloadAsset.aspx?id=30064780401) whose sections 3.6, 3.7, 3.8 and 5.3 describe the access services resources owned and controlled by Network Rail. As the Network Statement indicates, the majority of access services are not provided by Network Rail themselves but by rail transport operators. Rail transport operators are required to submit to Network Rail information on the services they offer and their geographical distribution. The Network Statement contains references to rail transport operator resources and encourages seeking contact with them to agree on the availability of services. Some agreements (e.g. those concerning the use of maintenance facilities) must be approved by the ORR, while others may be concluded by the parties amongst themselves. Requiring agreements to be approved by the regulatory body might be a relatively easy way for ensuring availability of services in Finland.

No drastic action has been taken with regard to access services in rail freight transport in the UK after the dismantling of the government monopoly; the ORR has functioned as a 'referee' in the availability of access services. This is basically due to the way in which the market was deregulated: since several equally robust freight transport operators were set up at the same time, they did not depend on one other's resources. If necessary, the parties were able to agree on the use of services through normal business negotiations. The situation in Finland is different from that in the UK in that the government-owned monopoly has long been and will for some time continue to be the largest operator by far. Therefore it is likely that the railway regulatory body in Finland will take a more active role than its counterpart in the UK to ensure that availability or pricing of access services will not constitute a barrier to entry to the market.

4. Recommendations for further action

This study constitutes the first market review of track access to service facilities and supply of services pursuant to section 3 of the relevant Government Decree (1059/2007). As is obvious in Finland's market situation, the vast majority of access services are used and the vast majority of the resources needed are owned and controlled by VR, currently the only railway undertaking on the market. However, there are enough rail transport operators operating on private sidings that a survey of views involving more than just VR was feasible. Nevertheless, rail transport operators on private sidings are by definition regional actors and do not have the geographical coverage of VR.

From the perspective of deregulation, it makes sense to consider the short-term and long-term angles separately.

In the short term, specifically with reference to the beginning of operations by Proxion Train and Ratarahti within the next few years, the regulatory body may be required to undertake the following:

- Acquiring procedures and expertise at the regulatory body for resolving disputes. Drawing up instructions for appeal similar to those published by the Office of Rail Regulation in the UK.
- Exercising special scrutiny of the availability and pricing of maintenance facilities and equipment, with specific reference to heavy locomotive overhauls. These services involve a number of challenges as regards deregulation. VR is the only operator with facilities and equipment customised for these services, and rail transport operators currently operating on private sidings have found the availability of the services to be poor. In addition to the supply of services, the regulatory body should also consider the response times to ensure that all rail transport operators have equal access to services and that mechanisms favouring a particular operator are not created or perpetuated.
- In certain individual cases, the regulatory body may need to take action in the short term with regard to the use of freight terminals if new rail transport operators require access to terminals or sidings owned by current railway undertaking or rail transport operator operating on private sidings and are not provided such access at reasonable terms. Such a situation might arise specifically in the case of raw timber loading sidings. However, such individual cases would have only a negligible impact on the functioning of the market, and this would not necessarily require measures beyond developing the capacity for handling appeals.
- Further specifying the definitions of access services. The national legislation is imprecise and even contradictory in many places as regards access services. The regulatory body should consider how national legislation needs to be amended for instance with regard to the use of storage sidings and the service obligation for the services described in Annex II section 3 of Directive 2001/14/EC.

In the long term, the regulatory body needs to encourage genuine competition on the market and to prevent the emergence of mechanisms that restrict competition

or favour any individual operator. Challenges will emerge in the equal availability of services, because the ownership of resources needed for producing those services is largely in the hands of a single railway undertaking.

The following points noted in the study will be of importance for the regulatory body in the long term:

- If other nationwide operators were to enter the market in addition to VR, it may be cost-effective for them in the long run to use the existing service network for refuelling.
- The use of passenger stations may need attention, because a single railway undertaking owns a significant percentage of Finland's passenger stations. According to rail transport operators entering the rail freight transport market, all rail transport operators should have access to all the relevant passenger stations.
- In the case of several railway undertakings entering the market it should be ensured that they all have equal opportunities for reserving and using marshalling yards, particularly the large marshalling yards. Equal access to marshalling yards may be ensured for instance by the Finnish Transport Agency in the context of allocating rail capacity to rail transport operators.
- Ensuring equal access to hump shunting facilities as part of train formation facilities is very important in the long term. Operations of marshalling yards with shunting humps could be provided as a separate service that the Finnish Transport Agency could put to competitive tendering.
- It may prove problematic for access to storage sidings that one rail transport operator owns a significant number of storage sidings. However, the need for storage sidings is alleviated by the possibility of using marshalling yards for storage as needed.

If the long-term goal is to create a genuinely open and competitive market, the regulatory body must ensure that access service resources owned and controlled by VR will be available to all rail transport operators with no preference given to any individual operator, insofar as it is not economically feasible for other operators to invest in similar resources themselves. Ultimately, this might mean removing resources from VR to the control of a body independent of all rail transport operators. The report indicates that further consideration of such regulation is needed particularly in the service areas of refuelling, use of passenger stations, use of train formation equipment (when considered to include humps) and storage sidings.

Apart from the situation concerning the availability of access services, VR occupies such a dominant position on the market that challenging it in any significant way would require unrealistically substantial initial investments on the part of a railway undertaking seeking to enter the market. The strong position of VR is thus in itself a restriction on competition, as it limits the interest of other operators in offering competing services on any significant scale.

It is possible that with time the new railway undertakings will expand and begin to compete more widely with VR. This, however, will take rather a long time, and in the meantime VR will have a huge advantage that will undermine the operating potential of new operators. Thus, active market supervision in the long term is need-

ed to ensure genuine competition in the area of rail transport. New, small players on the market would then have a chance to expand.