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Implementing act on Fees and Charges

Dear Keir,
Dear Josef,

CER, UNIFE, EIM, UIP, EPTTOLA, FEDECRAIL, ERFA and NB-Rail would like to come back on the latest draft implementing act for fees and charges and propose amendments for the forthcoming meeting of the Expert Group on the implementation of the 4th Railway Package's Technical Pillar.

The latest version of the implementing act proposes in principle a balanced-approach between the needs of the Sector for predictability and the needs of the Agency to ensure in all circumstances that the fees collected cover the costs of the services. While we acknowledge that defining the level of fees to be paid to the Agency is by nature a difficult forward-looking exercise, some crucial and important issues remain to be solved upfront in this particular phase of the implementation of the 4th Railway Package.

- Under-absorption (Art. 5.2 e.): if the absorbed overhead costs fall short of the actual amount of overheads incurred, the difference shouldn't be charged to the expenses of the applicant only. Overhead costs are covered by the general budget of the Agency.



- Provision of estimates (Art. 6): the risks linked to an over- or even an underestimation should be shared between the involved parties. The provision of estimates shall be reliable at least for the indirect costs incurred.

CER, UNIFE, EIM, UIP, EPTTOLA, FEDECRAIL, ERFA and NB-Rail propose to amend the implementing act accordingly.

Amendment 1

Article 5.2.e Calculation method for fees and charges	
e. Cost for under-absorption (monetized risks in case fees do not cover costs).	(deleted)
Whether an item of expenditure is to be treated as overhead should be discussed first in the frame of the Agency's budget. The implementing act on fees and charges shouldn't provide any open door for monetizing risks. All the fees and charges elements shall be calculated as laid down in Article 5.2 a.-d.	

Amendment 2

Article 6.2 Provision of estimate	
If during the procedure the cost incurred exceeds the estimate, the Agency and the national safety authorities shall review their estimates referred to in the previous paragraph. The Agency shall immediately issue an updated estimate to the applicant and provide the reasons thereof.	If during the procedure the direct costs incurred exceed the estimate, the Agency and the national safety authorities shall review their estimates referred to in the previous paragraph. The Agency shall immediately issue an updated estimate to the applicant and provide a reliable calculation therefore.
For estimate issued by the Agency on the request of the applicant, an under-estimation of indirect costs should be excluded. If however, the direct costs have been under estimated, the Agency shall provide an updated estimate and clearly justify the changes incurred.	



Amendment 3

Article 8.2 Method of payment	
The applicant shall ensure that the Agency receives payment of the amount invoiced, including possible bank charges related to the payment, within 30 calendar days from the date of notification of the invoice to the applicant through the One stop shop referred to in Article 12 of Regulation (EU) 2016/796. In case the applicant request the Agency to provide any	The applicant shall ensure that the Agency receives payment of the amount invoiced, including possible bank charges related to the payment, within 60 calendar days from the date of notification of the invoice to the applicant by the One stop shop referred to in Article 12 of Regulation (EU) 2016/796. In case the applicant request the Agency to provide any additional
30 calendar days are only acceptable for monthly invoices. For an invoice covering a full year, it should be altered to 60 calendar days.	

We are convinced that the suggested amendments represent an important contribution towards providing a basic trust between the Sector and the Agency.

Yours Sincerely,

Libor Lochman
CER Executive Director

Philippe Citroën
UNIFE Director General

Gilles Peterhans
UIP Secretary General

Monika Heimig
EIM Executive Director



Julia Lamb
ERFA Secretary General

Steve Wood
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Tim Gilbert
President, European Passenger Train
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Association

Christoph Handel
Chairman, NB-Rail AISBL