Regulatory changes in Swedish rail from a EU perspective

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Key seminar 2: Market opening in the Nordic countries – and EU
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Outline of presentation

• The Committee reviewing the organisation of the railway sector
• Regulatory changes in Swedish rail
• Regulatory development in the EU
• International comparison
• Some observations and conclusions
Purpose of the review

• A new Committee is appointed to make a review of the organisation of the Swedish railway sector, with the purpose to come up with suggestions for improvements to address future demands on efficiency and sustainability

• The Government decision follows a request from Parliament in December 2012
Background to the review

- 25 years of substantial changes in railway organisation, caused by two primary processes:
  1. A number of decisions in Parliament aiming at developing the functioning of the railways
  2. EU demands on rail organisation linked to the vision of creating a single European railway area
A two-step investigation

1. Description of current organisation
   Ready 4 December 2013

2. Analysis of how the organisation can be improved
   Following from additional directives
Directives for step 1

• Using a functional description of the railway system to show the division of responsibilities and tasks between different actors

• Describing the organisational development since 1988, including motifs and explanations of concepts

• Mapping of relevant EU legislation and the resulting scope for national decision-making

• Making an inventory of problems and potential areas of improvements
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1985</td>
<td>Separation of infrastructure from traffic operations in SJ’s accounts; track access charges introduced</td>
</tr>
</tbody>
</table>
| 1988 | Vertical separation of track infrastructure (Banverket) from operations (SJ)  
Decentralisation of responsibility and resources to regional authorities |
| 1990 | First tenders for regional services |
| 1993 | First tenders for interregional services |
| 1996 | Market opening for rail freight services |
| 2001 | Separation and corporatisation of SJ’s divisions |
| 2004 | New Railway law  
Swedish Rail Agency is established |
Regulatory changes in Swedish rail (2)

2006  Market opening for night trains and chartered trains

2009  Swedish Transport Agency is established
       Market opening for weekend traffic
       Market opening for international passenger train services

2010  Banverket’s construction and maintenance unit is separated and corporatised (Infranord)
       Banverket is merged with the Road Administration to form Trafikverket – the Swedish Transport Administration (a multi-modal infrastructure manager)
       Market opening for domestic passenger train services, with full effect from December 2011

2012  New law on public transport – market opening for local and regional public transport
## Regulatory development in EU (1)

<table>
<thead>
<tr>
<th>Year</th>
<th>Description</th>
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<tbody>
<tr>
<td>1991</td>
<td>Directive 91/440: account separation of infrastructure from traffic operations</td>
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<tr>
<td>2001</td>
<td><strong>First Railway Package</strong></td>
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<td></td>
<td>– Market opening for some international freight traffic from 2008</td>
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<td></td>
<td>– Framework for capacity allocation and infrastructure charging</td>
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<td>– Interoperability</td>
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<td>2004</td>
<td><strong>Second Railway Package</strong></td>
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<td></td>
<td>– Market opening for all rail freight services from 2007</td>
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<td></td>
<td>– Establishment of European Railway Agency (ERA)</td>
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<td>2007</td>
<td><strong>Third Railway Package</strong></td>
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<td></td>
<td>– Market opening for international passenger trains from 2010</td>
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<td></td>
<td>– Regulation on public passenger transport services by rail and by road (1370/2007)</td>
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<td>– Regulation on rail passengers’ rights and obligations (1371/2007)</td>
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<td></td>
<td>– Regulation on the certification of train drivers (2007/59)</td>
</tr>
</tbody>
</table>
Regulatory development in EU (2)

2010  Regulation on rail freight corridors (913/2010)
2012  SERA Directive (2012/34)
       – Recast of First Railway Package; to be implemented 2015
2013  Fourth Railway Package (proposal)
       – Strong recommendation of institutional vertical separation of infrastructure from operations (but other models allowed)
       – Market opening for all domestic passenger train services from 2019
       – Mandatory competitive tendering of contracted train services
       – ERA as a “one-stop shop” for vehicle authorisations
Sweden and EU – a comparison

Sweden
- 1985: Separation of accounts
- 1986: Institutional vertical separation
- 1987: Tendering of regional traffic
- 1988: Tendering of inter-regional traffic
- 1989: Market-opening for freight services
- 1990: Corporatisation of SJ
- 1992: Market-opening for freight services
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- 2009: New law on public transport
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- 2015: New law on public transport
- 2016: New law on public transport
- 2017: New law on public transport
- 2018: New law on public transport
- 2019: New law on public transport

EU
- 1985: 1st Railway Package
- 1986: 1st Railway Package
- 1987: 1st Railway Package
- 1988: 1st Railway Package
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- 2015: 1st Railway Package
- 2016: 1st Railway Package
- 2017: 1st Railway Package
- 2018: 1st Railway Package
- 2019: 1st Railway Package
Implementation of EU directives

• In several Member States, implementation of the *First* Railway Package is still an on-going process
• (Lack of) implementation in some Member States has resulted in legal action
• For the SERA directive, special implementation acts are currently under development
International comparison of liberalisation and market opening

Rail Liberalisation Index

<table>
<thead>
<tr>
<th>Country</th>
<th>2007</th>
<th>2011</th>
<th>Change</th>
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</thead>
<tbody>
<tr>
<td>Great Britain</td>
<td>827 p</td>
<td>+38 p</td>
<td>865 p</td>
</tr>
<tr>
<td>Germany</td>
<td>826 p</td>
<td>+16 p</td>
<td>842 p</td>
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<tr>
<td>Sweden</td>
<td>825 p</td>
<td>+47 p</td>
<td>872 p</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>809 p</td>
<td>+ 8 p</td>
<td>817 p</td>
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<tr>
<td>Austria</td>
<td>788 p</td>
<td>+18 p</td>
<td>806 p</td>
</tr>
<tr>
<td>Denmark</td>
<td>788 p</td>
<td>+37 p</td>
<td>825 p</td>
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</tbody>
</table>
International comparison of liberalisation and market opening

Rail Liberalisation Index

1. Sweden 872 p
2. Great Britain 865 p
3. Germany 842 p
4. Denmark 825 p
5. The Netherlands 817 p
6. Austria 806 p
Some observations and conclusions (1)

• In Sweden, the process of regulatory change started early and several important steps had already been taken before Sweden became a EU member

• Important elements of the EU regulatory development have been influenced/inspired by the Swedish model (both at early and later stages)

• Swedish legislation has been increasingly influenced by the EU during the past 10 years
Some observations and conclusions (2)

• In Sweden, the separation of functions and market-opening is completed
• The EU regulatory framework for separation and market-opening is still under development
• Important differences remain between Member States in terms of implementation and interpretation of the current EU framework
• From a Swedish perspective, the development of the EU regulatory framework is “out of sync”:  
  – Efforts from the EU aiming at breaking up old monopoly structures may have less desirable consequences in already vertically separated markets such as Sweden  
  – The EU regulatory framework is not adapted to already open markets where partly new problems have appeared
Some observations and conclusions (3)

- The EU regulatory framework for the railway sector is *very* comprehensive compared with most other industries.
- The Lisbon Treaty has given the European Commission more power to regulate on its own (delegated acts and implementation acts).
- Trends:
  - From mostly directives to more regulations (with legal status in all Member States).
  - An increasingly detailed regulatory framework, sometimes complemented by even more detailed guidelines.

What remains to market actors to compete for?
Thank you!

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