

New EU rules for CT Terminals

On 28 September 2017, the Single European Railway Area Committee adopted the *Implementing Act on Access to Service Facilities and Rail-related Services*.

The new legislation helps to interpret existing European rules and legal principles to affect the conditions of gaining access to and using the following types of service facilities:

1. Passenger stations
2. Freight terminals
3. Marshalling yards and train formation facilities (shunting facilities)
4. Storage sidings
5. Maintenance facilities
6. Cleaning and washing facilities (+ “other technical facilities”)
7. Maritime and inland port facilities linked to rail activities
8. Fueling facilities

UIRR's assessment of the Access to Service Facilities Act

I. Scope and possibilities for exemption

The term “freight terminal” is not defined in the Implementing Act, nor in the Directive 2012/342.

Nevertheless, CT Terminals are evidently included under the term, which also covers railports, public loading tracks at stations and industrial sidings.

Owners/operators of terminals may apply to the National Railway Regulatory Body to exempt their facility from under certain provisions of the Act on the grounds of:

- i. the facility has “no strategic importance”
- ii. the facility is “operated in a competitive market environment with a variety of competitors providing comparable services”, and
- iii. the Implementing Act could “negatively impact the functioning of the service facility market”. In every case burden of proof falls on the applicant for exemption.

UIRR's assessment of the Access to Service Facilities

II. Service Facility Description

Each Service Facility should prepare a Service Facility Description, which should contain:

- i. list of installations, technical characteristics and a description of services including that of the last mile tracks
- ii. temporary capacity restrictions and new capacities/capabilities
- iii. contact information
- iv. prices and the principles of applicable discount schemes
- v. procedure and deadlines for requesting access
- vi. model access contract
- vii. coordination procedure for granting access.

The Service Facility Description could be complemented by General Terms and Conditions affecting aspects not contained therein: e.g. applicant's liability in case of (last minute) cancellation of booked facility capacity, how and when should the Regulatory Body be invited to witness a coordination procedure, conditions of payment, guaranty requests and delayed payment penalties.

UIRR's assessment of the Access to Service Facilities

III. Publication of information about the facility

Content to be made public:

- i. Available capacity – if possible on a real-time basis
- ii. Temporary capacity restrictions – if possible on a real-time basis
- iii. New capacities/capabilities
- iv. The Service Facility Description
- v. Unused facilities should be advertised for lease (before closing them)

Two methods of publication of the Service Facility Description are defined:

- i. publishing on the facility's own website or on a common web portal – and providing a link to the responsible rail infrastructure manager, or
- ii. providing the rail infrastructure manager with ready-to-be-published information.

UIRR is part of a consortium that will develop the Common Web Portal for Europe. The European Commission will offer financial support for this initiative.

UIRR's assessment of the Access to Service Facilities

IV. Entry into force

Scope / the possibility to apply for exemption: from 1 January 2019

All aspects of the Implementing Act: from 1 June 2019

V. Overall evaluation

Members' experts provided essential advice to UIRR through the Interest Groups Terminals and Operations.

Several "extremes" in the initial draft of the European Commission could be fruitfully moderated over the course of the 18-month legislative process.

Collaboration with the Commission was very good, as they listened to reasonable arguments.

The task for UIRR and the Interest Groups going forward is to assist implementation by its members, contribute to the development of the Service Facility Description template, and to the common web portal.