



II-1.3 On 11 July 2012, the European Commission authorized public financing by France and Italy's Alpine rail motorway, in exception to the prohibition of State aid

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Translated Article PDF

European Commission France Innovation Italy Railway State aid Subsidization Transportation

MAIN INFORMATION

France and Italy had subsidized rail alpine highway, but the project was behind schedule. Thus, an prolongation of government support was necessary. The European Commission admitted in its decision of 11 June 2012, as States are committed the concession will be effective on June 30, 2013 and mostly because this mode of transport will be an alternative to transporting goods.

CONTEXT AND SUMMARY

The European Commission recognizes the specificity of the railway, not only because it is a natural economic monopoly, constituting an essential facility, but also because it is a means of transport "safe and clean", that it is therefore to develop as such.

This is indeed the term that begins the *Community guidelines on State aid for railway Undertakings* (2008/6 184/07), adopted by the Commission. Within the competition law through the exceptions that the Commission brings to the principle of prohibition of state aid, it is a regulatory policy that the European Commission establishes, a transport policy here.

It built the doctrine by the abovementioned guidelines. It does a particular application in this case.

The guidelines, very effective soft law by which the competition law ends up producing sector by sector, a law *ex ante*, constituting a regulatory law, allowed the European Commission in 2008 to formulate the target develop transport by rail, even though in fact he declined.

The text aims to encourage the development of a declining mode of transport, because the market needs for its development because it contributes to European integration, because it is safe and clean. But we also need the competition law does not bruised, the competitive dynamism and State aid are tolerated only under strict conditions.

In the particular decision of the European Commission on 11 July 2012,, the Commission has followed the request to extend public subsidies, justified by technical delays in the work, making impossible the opening of a bid that would to cease aid, since the concession allows the rail motorway to be financially independent.

A contrario, and of course, the Commission requires the two States to commit themselves to the railway system in concession no later than 30 June 2013. This is the logical consequence of the previous statement. The fulfillment of this obligation is the condition of the acceptance by the Commission of States aid.

In a more striking, the European Commission authorizes the extension of the public subsidy, exemption from the ban on state aid, in that it is an innovative project, and it offers an alternative to the present situation, ie transport of goods by trucks operated only (the system "off-road").

By limiting this system in the alpine zone, States limit casualties and damage to the environment. In addition, they are directly involved in transport policy followed by Europe. Consequently, state aid may be extended, from the moment that the concessions will be implemented as soon as technically feasible.

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BRIEF COMMENTARY

We must measure what degree of maturity reached by the European Commission. Indeed, throughout the competition law, it

has managed to establish an outright regulation of rail transportation that is no longer a failure market solution, but a European transport policy.

We can salute the consistency of construction, between guidelines that map out the general rules pose objectives and conditions for genuine transport policy in Europe. This is a proactive policy for rail transport, which is in decline and that the European Commission intends, however, it grows because of the qualities the Commission finds him, particularly with regard to the environment.

For this, the Commission simply loosen the stranglehold of the prohibition of State aid. It rises from the ex post competition in the ex ante of the enactment of general and abstract rules. It leaves the technical rules for State policy choices, such as transport arrangements need to ramp up to preserve the environment, so that economic agents do not do this directly.

In so doing, the Commission has moved from law to politics. It is then up to the recurrent issue of its legitimacy to do so, and the correlative challenge of building Europe politically.