



ERTMS and State aid

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State aid - legal framework

- Art 107 (1) TFEU

"Any aid granted by a Member State or through State resources ... which distorts or threatens to distort competition by favouring certain undertakings ... shall, in so far as it affects trade between Member States, be incompatible with the internal market"

except

Art 93 "aid which meets the needs of coordination of transport"

- 2008 Railway Guidelines



State resources

- National support measures
- Structural funds; not CEF
- Grants
- Guarantees and loans which are not granted at market terms



The State aid procedure

- SA control is Commission's exclusive competence
- Aid may only be granted after Commission approval
- Member State: „Stand-still“ obligation
- Notification of measure to COM



Railway Guidelines

- Section 6 “Aid for coordination of transport” establishes compatibility criteria
- Point 106 - Interoperability aid – “**good**” aid
- **Eligible costs:** *“All investments relating to the installation of safety systems and interoperability both in rail infrastructure and in rolling stock, in particular **investment associated with the deployment of ERTMS** and any like measure which can help to remove the technical barriers in the European rail services market”*



Railway Guidelines

- **Aid intensity** – aid amount expressed as percentage of eligible costs which stems from State resources
- Legal presumption of necessity and proportionality: 50% of eligible costs
- For aid above this threshold MS must demonstrate need and proportionality
- FN 8: explicit reference to interoperability measures on the trans-European transport network



Railway Guidelines

- **Ensure non-discrimination**
- Requirement of headquarters in the relevant Member State is prohibited
- Ok to require an establishment or branch at the moment of payment of the aid



**Thank you for your
attention!**