



# The reform of passenger rail in Switzerland: More performance without competition



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## ABSTRACT

The Swiss railway system is known for its high quality of service and integration in a particularly dense public transport system. People are generally less aware of ongoing institutional reform. This article strives to shed light on passenger transport reform, and more particularly on regional traffic. Which institutional frameworks are implicated? What have been the results obtained both for public finances and for travelers? What are the key elements for explaining recorded performance gains? What lessons could be drawn for railway reform? In summary, it appears that improved performance has been possible in Switzerland even in the absence of competition. These improvements are due to the nature of public governance and its impact on the various stakeholders. Public authorities have imposed ambitious but negotiated targets on operators, coupled with severe financial constraints, in a context of decentralization of public procurement. Given this new institutional framework, railway companies and especially the former state-owned railway, the national incumbent SBB have achieved significant productivity increases through management and technical innovation. Client satisfaction, at the heart of the reform, also contributes to these successes.

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## 1. Introduction

The quest for the optimal railway system continues (CER, 2012; Crozet, Nash, & Preston, 2012; ECMT, 1998, 2007; Kessides & Willig, 1995; Nash, 2011). This is shown by the European Commission's regulatory interventions, the most recent enactment happening at the end of January, 2013, with the announcement of a fourth railway package, to be implemented from December 2019, liberalizing the market for domestic passenger transport services by rail and fully separating infrastructure and operation management (COM2013/25/EC).

In this changing institutional environment, it seems interesting to underline the choices made by Switzerland, a country of railway tradition which, although not a member of the European Union, is in the heart of the European network. In Switzerland, a major rail reform was recently conducted, in part inspired by the proposals of the European Union (ATT, 1999), but also largely specific. Very little

research has been devoted to this subject (Finger & Holterman, 2013; Maier-Gyomlay, 2013; Van de Velde, 1999).

This paper aims at describing the institutional changes taking place in the Swiss passenger rail transport system and to highlight the consequences for stakeholders and on performance. We based our approach on a detailed investigation of both the academic and official specialized Swiss literature, especially of all the regulations. This has been completed by several discussions with some actors from the Swiss public transport system.<sup>1</sup> We also much referred to Swiss national railway statistics as well as to the UIC and also to many publications and management data from the national incumbent SBB.

This Swiss railway reform raises many issues. What is the institutional design of these reforms? What are the results? How have these successes been leveraged? What can be learned from Switzerland's example? Such are the questions we will attempt to answer in this paper.

<sup>1</sup> We'll particularly mention different contacts with the OFS (Statistics Federal Office), with railway transport specialists from the EPFL, with authority managers from the cantonal transport, and from the SBB. We'll insist on the fact that the SBB have really helped us by giving us the opportunity to open its own databases to us.

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## 2. Historical overview of Swiss railway reform: governance vs. competition

Swiss railway reform may be divided into three stages: in 1996 the “Revision of the federal law on railways” (Railways Act), which could be considered part of a “regionalization” process; in 1999 the “Railway Reform 1”, with broader scope and, from 2005, the “Railway Reform 2”, still partially under debate and implementation (CER, 2011).

### 2.1. The first stage – 1996: regional traffic reform

The Swiss railway reform began with a redefinition of the principles governing regional passenger transport.<sup>2</sup> Thus in Switzerland, railway reform began with regional reorganization. Legislation was launched with the Railways Act of 1995, which entered into force on the 1st of January 1996 (Federal Law of 24 March 1995). This legislation was based on three principles transforming relations between rail companies and public administration (Genoud, 2000).

The most significant change is known in Switzerland as the “ordering principle”, and corresponds to the implementation of a “net cost” contract. Public authorities only pay for services agreed upon in advance (for a given route, for an established duration, providing for specific services) and only pay the amount clearly stated in the contract. The amount of any financial compensation corresponds solely to the running loss projected by the operator period initially. This type of contract incites the commissioned operator to both reduce costs and increase income, as any losses will not be covered *ex post*.

The second change is in the powers transferred to canton authorities. Formerly, the Confederation and the SBB set the basic conditions for regional commuter transport and met all expenses. The only position for cantons consisted in presenting their scheduling requirements, thus one of simple “supplicants” (Blumenthal, 1998). The new reform held the cantons entirely responsible for organizing regional commuter services in their respective territories. Nonetheless, discretionary powers remained with the Federal Office of Transport (FOT). The latter remained guarantor of traffic coordination at the national level, was co-signatory to all contracts and directly paid operators all pre-agreed financial compensation.

The third principle in the railway reform lay in the end of the SBB monopoly for regional railway services. This was undoubtedly the most innovative of the clauses, and opened up competition for regional transport commissions to multiple operators. Thus far, however, there has never been competition for local or regional railway transport. The canton authorities do not publish bids for tender and there are no foreign service providers for the market (Finger & Genoud, 2004; Finger & Holterman, 2013). This is not the case for local and regional road transport, where public procurement tenders are now mandatory.

To be complete, this first stage in Swiss reform needed to be coupled with transforming the SBB into a structure with truly independent management. This was the object of the second railway reform.

### 2.2. The second stage – 1999: a new regulatory framework in keeping with European legislation

An additional stage in the process of railway reform was enacted with the “Railway reform 1” (Federal Law of 20 March 1998)

applicable from 1st January 1999. The main goal was to transpose into national law the principles laid out in Directive 91/440/CEE.<sup>3</sup> This reform had the effect of separating transport activities from infrastructure management. It also liberalized access to the railway for all authorized parties (essential for “on the market” competition, already in effect for freight in Switzerland). Lastly, it significantly overhauled the organization and business model of the SBB.

One of the main goals of this rail reform was to end the authority of the federal administration over the SBB. Although it remains the exclusive property of the Confederation, in the form of a public limited company, the SBB gained true operating autonomy, becoming independent from political and administrative power, subject to them only through a multi annual contract. In this contract the Confederation establishes the SBB’s strategic orientations for a four year period: its operational targets, its orders for expected passenger rail and freight services, requirements in railway infrastructure, and the amount of public compensation. When this change in status was decided, the Confederation also decided to erase all SBB debts (NERA, 2004). Lastly, this reform also led to a reorganization in activities, which were divided into four distinct branches: Passenger traffic, Cargo, Infrastructure and Real estate. In keeping with European regulations, the SBB also implemented separate accounting and an organic separation between rail infrastructure and operation. All in all, these new provisions have made a fresh start possible for the SBB in the European rail sector, currently undergoing liberalization.

SBB reform has also had a significant impact on sector regulations, and more particularly on the nature of the tasks confided to the Federal Office of Transport. So-called “sovereign” missions of the SBB, conflicting with its new status of railway company, were therefore transferred to the FOT.

### 2.3. Since 2005, railways reform 2: controversial and incomplete

In 2005 the government presented a new railway package to Parliament, the “Railway Reform 2”. The main goal was to transpose into Swiss law the First and Second EU Railway packages. These legislative packages laid out various measures on multiple subjects, such as how to finance rail infrastructure, how to establish regulatory authorities capable of fairly allocating railway slots to all rail companies, on safety in public transport. Parliament rejected the legislative package and suggested that the government divide it over several more narrowly focused bills (CER, 2011). The government then attempted to introduce the Railway 2 reform in installments.

The first part of this reform, related to railway regulation, safety and commission length in regional transport (from one to two years in duration), entered into force in 2010. This reform (Federal Law of 20 March 2009) included inter alia the Passenger Transport Act (French acronym “LTV”). It was supplemented by the ordinance on compensation for regional passenger transport (Federal Law of 20 March 2009, French acronym “OIRTV”). The second part of the Railway Reform 2, submitted to public consultation in 2009, was presented before the Parliament beginning in 2011.

It is highly interesting to note that three items in this new phase of Swiss rail reform are particularly controversial: 1) the importance awarded to the tendering principle in attributing passenger rail transport; 2) the rules pertaining to infrastructure financing, particularly those establishing the portions covered by the Confederation and the cantons respectively; 3) the choice of optimal architecture for infrastructure management (Litra, 2008).

<sup>2</sup> By regional passenger transport we refer to local passenger commuting services commissioned by the cantons and provided by the Swiss Federal Railways (SBB) or other so-called “private” companies owned in majority by the cantons. National transport is commissioned by the Confederation; it is currently provided by the SBB.

<sup>3</sup> According to the Agreement on Land Transport (ATT, 1999) which partially harmonizes transport regulations between Switzerland and the European Union.

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